

RESOURCE LANDS AND CRITICAL AREAS

Chapter 17.25

SHORELINE MANAGEMENT

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17.25.010 Title.

This chapter shall be known, and shall be cited, as the Lewis County shorelines chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 1, 1974]

17.25.020 Purpose.

The purpose of this chapter is to implement the Shoreline Management Act of 1971 (Chapter 286, Laws of 1971, 1st Ex. Sess.), codified as Chapter 90.58 RCW, and

to regulate development of the shorelines of the county in a manner consistent with the policy declared in RCW 90.58.020. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 2, 1974]

17.25.030 Definitions.

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) "Board" means the board of county commissioners of Lewis County.

(2) "Department" means the Washington State Department of Ecology.

(3) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of pilings; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

(4) "Director" means the director of the Lewis County planning department or his duly authorized designee.

(5) "Hearings board" means the shoreline hearing board.

(6) "Master program" means the "Lewis County shoreline management master program" adopted on June 17, 1974, by the Lewis County board of commissioners, and the use regulations together with maps, diagrams, charts, or other descriptive material and text; a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020.

(7) "Ordinary high water mark" on all lakes, streams, and tidal water means that mark which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a

character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(8) "Person" means an individual, firm, co-partnership, association, corporation, or other legal entity, including any federal, state, or local municipal corporation, agency, or special purpose district.

(9) "Planning commission" means the planning commission of Lewis County.

(10) "Planning department" means the planning department of Lewis County.

(11) "Shorelines" means all of the water areas within the unincorporated portion of Lewis County, including reservoirs, and their associated wetlands, together with lands underlying them except:

(a) Shorelines of state-wide significance;

(b) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and

(c) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

(12) "Shorelines of state-wide significance" means those shorelines described in Appendix B of the Lewis County shoreline management master program.

(13) "Shorelines of the county" means the total of all "shorelines" and "shorelines of state-wide significance" as designated in Appendix A of the Lewis County shoreline management master program within the county.

(14) "Substantial development" means any development of which the total cost, or

fair market value, exceeds \$2,500 or any development, which materially interferes with normal public use of the water or shorelines of the state except that the following shall not be considered substantial developments:

(a) Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or elements;

(b) Construction of the normal protective bulkhead, common to single-family residences;

(c) Emergency construction necessary to protect property from damage by the elements;

(d) Construction of a barn or similar agricultural structure on wetlands. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation shall not be considered normal or necessary farming or ranching activities. A feed lot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing nor shall it include normal livestock wintering operations;

(e) Construction or modification of navigational aids such as markers and anchor buoys;

(f) Construction on wetlands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of 35 feet above

average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(g) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family residence, for which the cost or fair market value, whichever is higher, does not exceed \$2,500;

(h) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

(i) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(j) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 amendatory act which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(k) Any project with a certification from the governor pursuant to Chapter 80.50 RCW;

(l) The construction of up to 500 feet of one and only one road or segment of a road for forest practices; provided, such road does not enter the shoreline more than once. Such exemption from said permit requirement shall be limited to a single road or road segment for each forest practice and such road construction shall be subject to the requirements of Chapter 76.09 RCW, the Forest Practices Act, and regulations adopted pursuant thereto and to the prohibitions or restrictions of any master program in effect under the provision of

Chapter 90.58 RCW. Nothing in this subsection shall add to or diminish the authority of the shoreline management act regarding road construction except as specifically provided herein. The provisions of this subsection shall not relate to any road, which crosses over or through a stream, lake, or other water body subject to Chapter 90.58 RCW.

(15) "Substantial development permit" means the shoreline management substantial development permit provided for in RCW 90.58.140.

(16) "Substantial development undertaken on the shorelines of the county prior to June 1, 1971" means actual construction begun upon the shoreline as opposed to preliminary engineering or planning, financing, or testing.

(17) "Wetland" or "wetland areas" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark and all marshes, bogs, swamps, floodways, river deltas, and floodplains associated with the streams, lakes and tidal waters which are subject to the provisions of this chapter, the same to be designated as to location by the Washington State Department of Ecology or in the case of rivers and streams for which the 100-year floodways have been specifically defined wetlands shall be the 100-year floodway and those lands extending for 200 feet in all directions as measured on a horizontal plane from the 100-year floodway of the rivers and streams subject to the provisions of this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 Amendment 2, 1980; Ord. 1034 Amend. 1, 1979; Ord. 1034 § 3, 1974]

17.25.040 Permits required for substantial development.

(1) No development shall be undertaken by a person on the shorelines of Lewis County unless such development is consistent with the policy of RCW

90.58.020, and the guidelines and regulations of the Washington State Department of Ecology and the Lewis County shoreline management master program.

(2) No substantial development shall be undertaken by any person on the shorelines of Lewis County without first obtaining a substantial development permit from the director; provided, that such a permit shall not be required for any project with a certification from the governor pursuant to Chapter 80.50 RCW (Thermal Power Plants). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 4, 1974]

17.25.050 Administration of permits.

The director is vested with the duty of administering the rules and regulations relating to shoreline permits. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 5, 1974]

17.25.060 Application for a permit - Fees - Publication of notices - Director's review - Burden of proof.

(1) Applications for substantial development permits on forms prescribed by the director shall be made with the director by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent.

2) The fees for this chapter are set forth in LCC 18.05.120.

(3) Upon receipt of an application the planning department will insure that public notice of the application is given by the following methods:

(a) Publication of a legal notice of application at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation in the area in which the development is proposed at the expense of the applicant; and

(b) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least 300 feet of the boundary of the property upon which the substantial development is proposed; or

(c) Posting of the notice in a conspicuous manner on the property upon which the project is to be located; or

(d) Any other manner deemed appropriate by the director, Lewis County planning department, to accomplish the objectives of reasonable notice to adjacent landowners and the public.

(4) The director shall review an application for a permit based on the following: the application; the environmental impact statement, if one has been prepared; written comments from interested persons; information and comment from other county departments affected and from the office of the prosecuting attorney; independent study of the planning department staff; and evidence presented at the public hearing, if any, held pursuant to the provisions of LCC 17.25.080. The director may require that an applicant furnish information in addition to the information required in the application forms prescribed. Unless an adequate environmental impact statement has previously been prepared for the proposed development by another agency, the director shall cause to be prepared such a statement, prior to granting a permit, when the State Environmental Policy Act of 1971 requires such a statement.

(5) The burden of proving that the proposed development is consistent with the criteria set forth in LCC 17.25.070 shall be on the applicant. [Ord. 1170B, 2000; Ord. 1158B, 1998; Ord. 1157, 1998; Ord. 1034 Amendment 2, 1980; Ord. 1034 § 6, 1974]

17.25.070 Criteria for granting permits.

(1) A permit shall be granted only when the proposed development is consistent with:

(a) The master program of Lewis County set forth in the Lewis County shoreline management master program; and

(b) The policy of RCW 90.58.020.

(2) No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the county that will obstruct the view of a substantial number of residences in adjoining areas unless there exists a master program which permits the same and that such permits shall be granted only when overriding considerations of public interest will be served. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 7, 1974]

17.25.080 Public hearing - Notice - Director's decision.

(1) In the following cases, decisions on applications for substantial development permits shall not be made until at least one public hearing has been held:

(a) One or more interested persons has submitted to the director, within 15 days of the final publication of notice of the application, a written request for such a hearing together with a statement of the reasons for the request; or

(b) The estimated total cost of the proposed development exceeds \$500,000; or

(c) The director determines that the proposed development is one of broad public significance.

(2) The public hearing required under subsection (1) of this section shall be conducted by the Hearing Examiner as a substantive hearing pursuant to Chapter 2.25 LCC.

(3) Notice of the time and place of the public hearing shall be published in the same manner and, where appropriate, combined with the notices of application

required in LCC 17.25.060(3) and the public hearing shall be held no sooner than 15 days after the final date of publication of the notice of public hearing. Ten days' written notice of the time and place of the public hearing shall be mailed or delivered to the applicant and to any interested person who has submitted a written request for such hearing or who has submitted a written request for notice of such a hearing.

(4) If, for any reason, testimony on any matter set for public hearing on being heard cannot be completed on the date set for such hearing, the Hearing Examiner may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

(5) When the Hearing Examiner renders a decision, it shall make and enter written findings from the record and conclusions thereof which support its decision and the findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in LCC 17.25.070.

(6) The Hearing Examiner shall have the power to prescribe rules and regulations for the conduct of hearings pursuant to Chapter 2.25 LCC. All decisions of the Hearing Examiner shall be final, unless appeal is timely made to the Hearing Examiner pursuant to Chapter 2.25 LCC. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 8, 1974]

17.25.090 Appeals the Hearing Examiner.

(1) Any aggrieved person may file written appeal with the Hearing Examiner in accordance with Chapter 2.25 LCC from any decision of the director or substantive hearing before the Examiner within seven days from the date of the contested decision. Appeals shall be filed in duplicate with the office of the planning department. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 Amendment 2, 1980; Ord. 1034 § 9, 1974]

17.25.100 Public hearing - Notice required.

Notice of public hearing shall be provided as stated under Chapter 2.25 LCC.[Ord. 1170B, 2000; Ord. 1157, 1998]

17.25.110 Notice of final action.

(1) Within eight days of final action on any application for permit, the director shall notify in writing the following persons of such final approval, disapproval, or conditional approval of a substantial development permit:

- (a) The applicant;
- (b) Washington State Department of Ecology;
- (c) Washington State Attorney General;
- (d) Lewis County prosecuting attorney; and
- (e) Any person who has submitted to the director written comments on the application or who has written the director requesting notification. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 Amendment 2, 1980; Ord. 1034 § 11, 1974]

17.25.120 Applicability.

(1) No person shall begin substantial development of all or of any part of the shorelines of the county until 30 days after being granted a permit according to the provisions of this chapter or until all review proceedings initiated within such 30-day period are terminated.

(2) Nothing in the permit shall be construed as excusing the applicant from compliance with any other local, state, or federal statutes, ordinances, or regulations applicable to the proposed development. A permit shall not be granted until the proposed development is in compliance with all other applicable regulations; except, a building permit shall not be required prior to a substantial development permit. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 Amendment 2, 1980; Ord. 1034 § 12, 1974]

17.25.130 Appeals to the state.

Any person aggrieved by the granting, denying, or rescinding of a shoreline development permit by the Hearing Examiner may seek review by filing a request for review with the shorelines hearing board, the Department of Ecology, and the Attorney General within 30 days of receipt of the final order. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 13, 1974]

17.25.140 Appeals to the state by the board.

The board may appeal to the shorelines hearings board for rules, regulations, guidelines, designations or master programs for shorelines of the state adopted or approved by the Department of Ecology within 30 days of the date of the adoption or approval. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 14, 1974]

17.25.150 Rescission - Service of notice -Hearing.

(1) Any permit granted pursuant to this chapter may be rescinded or modified upon a finding by the Hearing Examiner after a substantive hearing in accordance with Chapter 2.25 LCC that the permittee has not complied with the conditions of his permit.

(2) The director or board may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.

(3) Before a permit can be rescinded or modified, a public hearing shall be held by the Hearing Examiner no sooner than 30 days following the service of notice upon the permittee. The Hearing Examiner shall have the power to prescribe rules and regulations for the conduct of such hearings.

(4) The director of the Lewis County community development department or his authorized representative may inspect properties as necessary to determine whether permittees have complied with conditions of

their respective permits and, whenever there is reasonable cause to believe that development has occurred upon any premises in violation of the Shoreline Management Act of 1971 and this chapter, enter upon such premises at all reasonable times to inspect the same. The said director or his representative shall present proper credentials before demanding entry. If such premises are unoccupied, a reasonable effort shall be made to locate the owner or tenant of the premises advising such person(s) of any violations and requiring him to take whatever action is necessary to comply with the Shorelines Management Act of 1971 and/or this chapter. Subsequently, he shall also seek appropriate legal sanctions by the office of the Lewis County prosecuting attorney as provided in LCC 17.25.160.* [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 Amendment 2, 1980; Ord. 1034 § 15, 1974]

17.25.160 Criminal penalties - Civil liabilities.

(1) Any person having willfully engaged in activities on the shorelines of the county in violation of this chapter or the Shoreline Management Act of 1971 or in violation of the Lewis County master program, and rules or regulations adopted pursuant thereto, shall be subject to the penalties in RCW 90.58.220.

(2) The office of the Lewis County prosecuting attorney may bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are being made of the shorelines of the county in conflict with the provisions of this chapter or the Shoreline Management Act of 1971 or in conflict with the master program, rules or regulations adopted pursuant thereto, and to otherwise enforce the provisions of this chapter and the Shoreline Management Act of 1971.

(3) Any person subject to the regulatory program of this chapter who violates any

provision of this chapter or the provisions of a permit issued pursuant thereto shall be civilly liable for all damage to public or private property arising from such violation including the cost of restoring the affected area, within a reasonable time, to its condition prior to such violation. The office of the Lewis County prosecuting attorney may bring suit for damages under this subsection on behalf of the county. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 16, 1974]

17.25.170 Rules of the director.

(1) The director is authorized to adopt such rules as are necessary and appropriate to implement this chapter.

(2) The director may prepare and require the use of such forms as are necessary to its administration. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1034 § 17, 1974]

Chapter 17.30

RESOURCE LANDS

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Article I. General Provisions

17.30.010 Authority and title.

This chapter is established pursuant to RCW 36.70A.060 and shall be known as the “Lewis County Resource Lands Ordinance.” [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.1, 1996]

17.30.020 Purpose and goals.

(1) The purpose of this chapter is to identify and conserve long-term commercially significant forest, agricultural, and mineral resource lands designated pursuant to this chapter as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990) by supplementing the development regulations contained in various ordinances of Lewis County and other applicable state and federal laws by providing additional controls and measures to conserve resource lands and protect human health and safety. This chapter is adopted under the authority of Chapters 36.70A and 36.70 RCW.

(2) This chapter is premised on a perceived community vision that calls for minimum resource lands designations and protection standards, consistent with the requirements of Chapter 36.70A RCW.

(3) The intent of this chapter is to facilitate the processing of relevant land use and development applications in a timely fashion with minimum intrusion on individual freedom, with a maximum of consistency and predictability. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.2, 1996]

17.30.030 Policy.

(1) It is a policy of Lewis County that the resource lands supporting agriculture, forest, and mineral extractive industries be

conserved as identified in this chapter, and further that reasonable associated and incidental uses be identified which aid and assure the economic viability of the long-term commercial resource user. Reasonable regulation shall be achieved by the balancing of individual and collective interests.

(2) The county-wide planning policies identified private property rights as the primary priority and all applications of this chapter shall be cognizant and consistent with private property rights.

(3) No permit granted pursuant to this chapter shall remove an applicant's obligations with respect to applicable provisions of any other federal, state, or local law or regulation, including, but not limited to, the acquisition of any other required permit or approval.

(4) Mitigation Priorities.

(a) Avoid the impact altogether by not taking a certain action or parts of any action where reasonable nonresource land alternatives are available;

(b) Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reduce or eliminate the impact over time by preservation and maintenance of resource land functions during the life of the action;

(e) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments in lieu of resource lands impacted; and/or

(f) Monitor the impact and take appropriate corrective measures where appropriate.

(5) Mitigation Application.

(a) Lewis County respects the right of property owners to use their property

consistent with the guidelines presented. Priorities in subsection (4) of this section are preferences to guide development and may be mixed to facilitate reasonable use of property, with increasing mitigation applied to the greater impacts to protect the functions, systems, and values identified.

(b) The priorities in subsection (4) of this section shall not be used to deny a permit for activities specifically authorized on resource lands or buffers where reasonable nonresource land alternatives are unavailable.

(6) The assessor is required to consider the impact to property values by reason of restrictions in this chapter in assessing property in Lewis County.

(7) Existing property uses shall not be affected by this chapter. This chapter will apply only when regulations require a development permit from Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.3, 1996]

17.30.040 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Liberally construed to serve the purpose of this chapter;

(2) Deemed neither to limit nor repeal any other powers under state statute;

(3) Considered adequate mitigation under SEPA unless a proposed use or activity poses an unusual or extraordinary risk to a resource land system. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.4, 1996]

17.30.050 Duration.

The development regulations for resource lands, as set forth in this chapter, shall be reviewed during consideration of the implementing regulations for the Lewis County Comprehensive Plan, adopted pursuant to Chapter 36.70A RCW. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.5, 1996]

17.30.060 Judicial review.

Judicial review of any decision made hereunder shall be appealable pursuant to the Land Use Appeals Act, Chapter 36.70C RCW. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 1.7, 1996]

Article II. Definitions

17.30.070 Administrator.

“Administrator” means the planning director of the Lewis County department of community development or his or her designee.* [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.080 Agricultural land - Agricultural resource land.

“Agricultural land” or “agricultural resource land” means land primarily devoted to the commercial production of aquaculture, horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.090 Best management practices.

“Best management practices” means conservation practices or system of practices and management measures that:

- (1) Maximize the economic return;
- (2) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment;
- (3) Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics; and
- (4) Take into account site-specific conditions, including, but not limited to, soil, climate, topography, operator's skills and abilities, and owner and/or operator's

goals. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.100 Biosolids.

“Biosolids” means municipal sewage sludge or septage that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all the requirements of 40 CFR Part 503, Subpart A (which establishes “standards and general requirements, pollutant limits, management practices, and operational standards for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works”). Sewage sludge or septage, which does not meet all the requirements of Part 503, cannot be referred to as biosolids. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.110 Clustering.

“Clustering” means the placement of dwellings and accessory buildings in a pattern of development, which reduces impervious surface area, lowers cost of development and maintenance, and retains larger expanses of property available for agriculture, forestry, or continuity of ecological functions characteristic of the property to development. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.120 Economic viability.

“Economic viability” means that the profit (or return) can reasonably be expected to be high enough to justify the investment. The prudent investor will not invest in resource land activity unless there is a reasonable expectation of a competitive return on his investment. That is, the owner will expect to get all his investment back, plus at least the cost of investment capital, plus a management fee. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.130 Farm employee.

For farm housing purposes, a “farm employee” shall be a person employed in the farming operation who makes over 50 percent of his or her gross income from the farming operation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.140 Forest land - Forest resource land.

“Forest land” or “forest resource land” means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.150 Geologist.

“Geologist” means a person who has earned his/her livelihood primarily from the field of geology for at least five years, and has received a degree in geology or a related field from an accredited four-year institution of higher education. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.160 Growing season.

“Growing season” means the growing season for the soils meeting the land capability criteria set forth in LCC 17.30.580(1) and shall be as identified in the map unit descriptions contained in the soil survey of Lewis County Area. Washington, USDA, Soil Conservation Service, May, 1987. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.170 Home-based industries.

“Home-based industries” means a typically light industrial use located within a residential building, or a structural accessory thereto, which use is accessory, incidental, and secondary to the use of the building for

dwelling purposes. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.180 Immediate family members.

“Immediate family members” means the parents, spouse, child(ren), siblings, grandparents, and those members of the same household who have assumed rights and duties commonly associated with a family and who hold themselves out as a family unit. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.190 Large lot subdivision.

“Large lot subdivision” means the division of land, for sale or lease within a designated resource land, no lot of which is less than five acres in size and one lot of which is at least 20 acres in size. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.200 Long-term commercial significance.

“Long-term commercial significance” includes the growing capacity, productivity, soil composition of the land for long-term commercial production, and economic viability, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.210 Mineral resource lands.

“Mineral resource lands” means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.220 Minerals.

“Minerals” includes gravel, sand, rock, clay, coal, and valuable metallic substances. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.230 Primary agricultural crops.

The “primary agricultural crops” for long-term commercially significant agriculture in Lewis County may include, but are not limited to, peas, sweet corn, blueberries, strawberries, small grains, bulbs, horticultural activities such as greenhouses and nurseries, silage/pasture/hay, and Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.240 Qualified forester.

“Qualified forester” means a person with a bachelor of science degree in forestry or the equivalent in post-secondary education and work experience in forestry. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.250 Urban governmental services.

“Urban governmental services” means those governmental services historically and typically delivered by cities, including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.260 Urban growth.

“Urban growth” means growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.270 Urban growth area (UGA).

“Urban growth area (UGA)” means those areas designated for urban growth by Lewis County pursuant to RCW 36.70A.110. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

17.30.280 Wetlands delineation.

Wetlands shall be defined and delineated in accordance with standards identified in the Lewis County critical lands ordinance. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 2, 1996]

Article III. General Requirements**17.30.290 Applicability.**

This chapter classifies and designates resource lands in Lewis County and establishes regulations for the protection of resource lands, human health, and safety. Lewis County shall not grant any permit, license, or other development approval to alter the condition of any land, water, or vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this chapter, except in compliance with the provisions of this chapter. Failure to comply with the provisions of this chapter shall be considered a violation and subject to enforcement procedures. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.1, 1996]

17.30.300 Relationship to other regulations.

Areas characterized by a particular resource land may also be subject to critical areas regulations due to the overlap of multiple functions of critical areas and resource lands. In the event of any conflict between these regulations and other regulations of the county, the resource lands regulations shall take precedence. No permit

granted pursuant to this chapter shall remove the applicant's obligation to comply in all respects with provision of any federal, state, or local law or regulation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.2, 1996]

17.30.310 Exemptions.

The following activities shall be exempt from the provisions of this chapter:

(1) Existing and on-going agricultural activities on lands designated as resource lands on the effective date of the ordinance codified in this chapter;

(2) Normal and routine maintenance and operation of existing irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons, and livestock water ponds; provided, that such activities do not involve conversion of any resource lands to other than resource land uses;

(3) Maintenance, operation, repair, or replacement of utility facilities and associated rights-of-way, including but not limited to reasonable access roads, and construction of utility facilities reasonably necessary;

(4) Passive recreational uses, sport fishing or hunting, scientific or educational review, or similar minimal impact, nondevelopment activities;

(5) Site investigative work required by a city, county, state, or federal agency in conjunction with the preparation of a land use application submittal such as surveys, soil logs, percolation tests, and other related activities. In any such activity, resource lands are avoided where possible and minimized where necessary, and disbursed to the extent possible;

(6) Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways; provided, that reconstruction of any such facilities does not extend outside the previously disturbed area;

(7) Any projects currently under review and “vested” as that term is used in RCW 19.27.095 and 58.17.033 by local, state, or federal agencies prior to official adoption of the ordinance codified in this chapter are exempt from this chapter and will be grandfathered under previous resource lands protection measures; provided, however, “vested properties” shall include any property acquired for development purposes where the following qualifications have been met: (a) the purchase includes lands designated as resource lands pursuant to this chapter; (b) the purchaser can demonstrate through some objective means that the property was acquired for present development purposes (e.g., more than generalized intent, such as a feasibility study, nature of purchaser's business, or other facts or data); and (c) the earnest money agreement is complete and binding on both parties within 90 days prior to the effective date of the ordinance codified in this chapter; and provided further, such additional vested rights shall be in effect only for the subdivision of such property in fact completed (final plat recorded) within 18 months of the effective date of the ordinance codified in this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.3, 1996]

17.30.320 Application requirements - General.

This chapter is an overlay similar to Chapter 43.21C RCW. No separate “application” or permit is required. The criteria and requirements of this section must be addressed, however, in connection with all land use or development permits issued by Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.4, 1996]

17.30.330 Designation of the administrator.

The planning director of the Lewis County department community development

or his or her designee shall be responsible for applying the provisions and requirements of this chapter.* [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.5, 1996]

17.30.340 Appeals.

(1) Any decision of the administrator in the administration of this chapter may be appealed by the applicant to the hearing examiner. The decision shall be based on the record at the time the decision was issued.

(2) Appeals shall be filed in writing in duplicate with the hearing examiner within 10 calendar days of the date of the action being appealed. The appeal must specify the code section under which error is alleged and state facts from the record to demonstrate prima facie violation of the section in question.

(3) Upon the filing of an appeal, the hearing examiner shall set the time and place at which the matter will be considered. At least 10 calendar days notice of such time and place, together with one copy of the written appeal, shall be given to the appellant. The appeal shall follow the requirements for a closed record appeal in Chapter 2.25 LCC.

(4) The hearing examiner may reverse or affirm wholly or in part the decision of the administrator. The hearing examiner may also remand if it appears that new or supplemental information may change the result reached. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.6, 1996]

17.30.350 Penalties and enforcement.

(1) It shall be unlawful for any person, firm, corporation, or association, or agent thereof, to violate any provision of this chapter. Any such person or other such party who violates such provision of this chapter shall be subject to the penalties in LCC 1.20.020.

(2) A notice of violation and order for the penalty may be issued by the administrator or designee when there is a

finding by such official that a violation of this chapter has occurred or is occurring.

(a) The administrator shall issue such notice and order in writing to the person(s) creating, causing, participating in, or allowing the violation pursuant to LCC 120.040.

(3) The office of the Lewis County prosecuting attorney may bring such additional injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter, and county and state laws, and the costs of such action shall be taxed by the prosecuting attorney against the person committing the violation.

In the enforcement of this chapter the prosecuting attorney may accept assurance of discontinuance of any act or practice deemed in violation thereof from any person engaging in, or who has engaged in, such act or practice. A violation of such assurance shall for purposes of prosecuting constitute and serve as prima facie proof of violation of this chapter. Acceptance of such assurance does not relieve a party from compliance with this chapter or state law. With respect to court actions filed pursuant to this chapter, any such assurance shall be in writing and be filed with and subject to the approval of the superior court. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.7, 1996]

17.30.360 Nonconforming activities.

An established use or existing structure that was lawfully permitted prior to adoption of the ordinance codified in this chapter, but which is not in compliance with this chapter, may continue subject to the following:

(1) Nonconforming uses shall not be expanded or changed in any way that increases the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter;

(2) Existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a

permit or other approval issued pursuant to the provisions of this chapter, except single-family dwellings and accessory structures may be expanded or altered as follows: reconstruction, remodeling, or maintenance of one-family dwellings and accessory structures existing on the effective date of the ordinance codified in this chapter shall be allowed; provided, that a one-time only expansion of the building footprint does not increase that footprint by more than 25 percent;

(3) Activities or uses which are abandoned. A use discontinued for 60 months shall be presumed abandoned, but such presumption may be rebutted. An abandoned use or structure is allowed to resume only if in compliance with this chapter; and

(4) Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction of the same facility is commenced within two years of such damage. The reconstruction or restoration shall not serve to expand, enlarge, or increase the extent of the nonconformity. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.8, 1996]

17.30.370 Variances.

(1) If an applicant for a proposal demonstrates to the satisfaction of the administrator that application of the standards of this chapter would constitute an extraordinary hardship to the applicant, a variance to such standards shall be granted if the applicant also demonstrates all the following to the satisfaction of the administrator:

(a) That no commercially viable use with less impact on the resource lands is possible which would not pose an extraordinary hardship on the applicant;

(b) That there is no commercially viable alternative to the proposed activities, including reduction in density, phasing of

project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the resource land and its related buffer;

(c) That the proposed activities will result in minimum feasible alteration or impairment to the resource land's functional characteristics and its existing environment;

(d) That disturbance of resource lands has been minimized by locating any necessary alteration in a related buffer to the extent possible;

(e) That the proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, or sensitive species or habitats;

(f) That the proposed activities will not significantly affect the quality of groundwater or surface water quality;

(g) That the proposed activities comply with all state, local, and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(h) That any and all alterations to resource lands and their related buffers will be mitigated as required by the provisions of this chapter;

(i) That there will be no injury to nearby public or private property and no significant affect upon the health, safety, or welfare of persons within or outside of the property; and

(j) That the need for a variance is not the result of deliberate actions by the applicant or prior owners after the effective date of the ordinance.

(2) Notice of a variance request shall be given in conjunction with the notice of any permit application; provided, that if such permit application does not require a public hearing, the variance request shall be scheduled for hearing before the administrator upon the same notice as

provided for other public hearings required by county subdivision ordinance. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.9, 1996]

17.30.380 Nonregulatory incentives.

The following nonregulatory incentives shall apply to all resource lands:

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the resource lands regulations contained in this chapter when determining the fair market value of land.

(b) Any owner of a resource land who has dedicated a conservation easement to or entered into a perpetual conservation restriction with a department of the local, state, or federal government; or to a nonprofit organization to permanently control some or all of the uses and activities within this area may request that the Lewis County assessor re-evaluate that specific area with those restrictions.

(c) The administrator shall notify the assessor's office of any application of this chapter, which results in building restrictions on a particular site.

(2) Open Space. Subject to the criteria established by law, any person who owns a resource land area as identified by this chapter may apply for current use assessment pursuant to Chapter 84.34 RCW. The Open Space Tax Act allows Lewis County to designate lands, which should be taxed at their "current use value." The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. Lewis County has adopted a public benefit rating system, which classifies properties on the basis of their relative importance of natural and cultural resources, the availability of public access, and the presence of a "conservation easement." These features are given a point value, and the total point value determines the property tax reduction. Lands with an important habitat or species would

commonly qualify for this voluntary program. Applications are approved by the board of county commissioners following a public hearing.

(3) Conservation Easement.

(a) Any person who owns an identified resource land as defined by this chapter may offer a conservation easement over that portion of the property designated a resource land naming the county or its qualified designee under RCW 64.04.130, as the beneficiary of the easement. The purpose of the conservation easement shall be to protect, preserve, maintain, restore, limit the future use of, or conserve for open space purposes the land designated as resource lands, in accordance with RCW 64.04.130. Details governing easement restrictions and conditions of acceptance shall be negotiated between property owners and the county. Acceptance of such an easement and the consideration therefor, if any, shall be discretionary with the county and subject to the priorities for and availability of funds.

(b) The administrator may attach such additional conditions of acceptance as deemed necessary to assure the preservation and protection of the affected wetlands and buffers within conservation easements to assure compliance with the purposes and requirements of this chapter.

(c) The responsibility for maintaining conservation easements shall be held by the overlying lot owner(s) or other appropriate entity as approved by the administrator.

(d) Lewis County may establish appropriate processing fees for such conservation easements.

(4) Development Rights Transfer and Acquisition. Lewis County shall adopt a development rights transfer and/or acquisition program pertaining to development rights on designated resource lands by September, 1998. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.10, 1996]

17.30.390 SEPA.

This chapter is a written policy of Lewis County enforceable through the State Environmental Policy Act, Chapter 43.21C RCW and specifically RCW 43.21C.065. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.11, 1996]

17.30.400 Judicial or legislative modification.

Should the Growth Management Act (Chapter 36.70A RCW) or the implementing regulations (Chapter 360-190 WAC) be challenged or modified by a court of competent jurisdiction or modified by the Legislature in any way affecting this chapter, this chapter shall be brought before the board of county commissioners, not less than 30 days after such action is final, to determine what, if any, changes may be required by reason of such action. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.12, 1996]

17.30.410 Cost recovery.

Unfunded costs incurred by the county or its citizens which are properly chargeable to the state or state agencies shall be billed to such agencies consistent with applicable rules and regulations for such cost recovery. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.13, 1996]

Article IV. Forest Resource Lands

17.30.420 Classification.

Long-term commercially significant forest resource lands of Lewis County are classified according to the following:

(1) Private Forest Land Grades of the Washington State Department of Revenue (WAC 458-40-530).

(a) The land grade system incorporates consideration of growing capacity, productivity, and soil composition of the land. Forest land of long-term commercial significance will generally have

a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation of forest land.

(b) The Washington State Department of Community, Trade and Economic Development also recommends that each county determine which land grades constitute forest land of long-term commercial significance, based on local and regional physical, biological, economic, and land use considerations.

(c) The following table is a cross reference of tree species, growth potential, and corresponding land grades on a 50-year basis:

Washington State Private Forest Land Grades

Species	Growth Potential	Land Grade*
Douglas Fir	136 feet and over	1
	118 - 135 feet	2
	99 - 117 feet	3
	84 - 98 feet	4
	under 84 feet	5
Western Hemlock	136 feet and over	1
	116 - 135 feet	2
	98 - 115 feet	3
	83 - 97 feet	4
	68 - 82 feet	5
	under 68 feet	6
Red Alder	117 feet and over	6
	under 117 feet	7

*Land grade 1 =highest; land grade 7 =lowest

(d) The predominant species growing in Lewis County is Douglas fir. Most of Lewis County is composed of land grade 2 and land grade 3.

(e) A predominance of forest land grade 2 and forest land grade 3 shall be required for designation as forest land of long-term commercial significance.

(2) Minimum Block Size. A minimum block size of 5,000 contiguous acres managed as forest lands. These blocks

consist of predominantly large parcels and which can be in multiple ownerships.

(3) Property Tax Classification. Property in the block is assessed or eligible to be assessed as open space or forest land pursuant to Chapter 84.33 or 84.34 RCW.

(4) Availability of Public Services Conducive to the Conversion of Forest Land. The property is located outside a designated urban growth area (UGA).

(5) Proximity of Forest Land to Urban and Suburban Areas and Rural Settlements. Forest lands of long-term commercial significance shall be located outside the urban and suburban areas and rural settlements. In addition to being located outside the UGAs, long-term forest lands should be far enough from urban areas that land use conflicts are minimized.

(6) Local Economic Conditions Which Affect the Ability to Manage Timber Lands for Long-Term Commercial Production. Economic conditions should be conducive to long-term timber management. In Lewis County, unfavorable economic conditions include locations with high administrative costs due to complaints from nearby landowners, locations requiring extensive security control efforts, and locations in which allowable forest practices such as burning and chemical applications will significantly interfere with other permitted land uses. Favorable economic conditions include Land Grade 2 and Land Grade 3 forest soils, which provide (in conjunction with large parcel sizes) the growth potential to manage timber lands for long-term commercial production.

(7) History of Land Development Permits Issued Nearby. For Lewis County, this means that recent residential development is an indicator of a pattern or direction of growth that may be encroaching on the forest land. The above criteria are applied throughout unincorporated Lewis County to designate those forest lands of long-term commercial significance. Those

lands that currently meet the criteria are shown on map entitled Lewis County Forest Lands, March 1996. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.1, 1996]

17.30.430 Designation.

Lands of Lewis County meeting the classification criteria for forest resource lands are hereby designated as forest resource lands in the following categories:

(1) Forest Land of Long-Term Commercial Significance. Primary forest lands are those forest lands meeting the classification criteria within the minimum blocks of 5,000 contiguous acres and all federally owned lands managed for their forest resources.

(2) Forest Land of Local Importance. Forest lands of local importance are those forest lands meeting the criteria of LCC 17.30.420 (1), (3), (4), (6) and (7) which fall outside a 5,000-contiguous-acre block and meet the following criteria:

(a) Formal Designation ("Opt-In"). Forest lands of local importance shall only be designated by the board of county commissioners upon a petition for such designation by the landowner pursuant to the requirements of LCC 17.30.560(2).

(b) Minimum Acreage. Forest lands of local importance shall have a minimum parcel size of 20 acres. However, smaller parcel sizes shall be permitted for designation upon a showing of profitability in the form of a report from a qualified forester to provide a factual basis for designation as a forest land of local importance.

(c) Minimum Period for Commitment to Designation. The landowner petitioning for designation as a forest land of local importance shall be required to commit the property to remain in that designation for 10 years. The designation may be renewed by the landowner at the end of the 10-year period, provided that renewal of the

designation shall not be considered an amendment to the zoning regulations.

(d) Current Forest Land Use. The property is in open space or forest land classification pursuant to Chapter 84.33 or 84.34 RCW. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.2, 1996]

17.30.440 Uses.

The intent and purpose of this section is to maintain and enhance resource-based industries, encourage the conservation of productive forest lands and discourage incompatible uses. Nothing in this section shall be construed in a manner inconsistent with the Washington State Forest Practices Act. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3, 1996]

17.30.450 Primary uses.

(1) The growing and harvesting of timber, forest products, and associated management activities in accordance with the Washington Forest Practices Act of 1974 as amended, and regulations adopted pursuant thereto.

(2) Removal, harvesting, wholesaling, and retailing of vegetation from forest lands including, but not limited to, fuel wood, cones, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs, and mushrooms.

(3) Agriculture, floriculture, horticulture, general farming, dairy, the raising, feeding and sale or production of poultry, livestock, fur bearing animals, honeybees including feeding operations, Christmas trees, nursery stock and floral vegetation, and other agricultural activities and structures accessory to farming and animal husbandry.

(4) Extraction and processing of rock, gravel, coal, oil, gas, mineral, and geothermal resources. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(A), 1996]

17.30.460 Accessory uses.

Uses allowed outright where directly connected with and in aid of a forestry activity:

(1) One single-family dwelling unit or mobile home per lot, parcel, or tract;

(2) One accessory dwelling unit in conjunction with a single-family dwelling or mobile home. Kitchen facilities may not be provided in accessory dwelling units;

(3) Storage of explosives, fuels, and chemicals used for agriculture and forestry subject to all applicable local, state, and federal regulations;

(4) Forestry, environmental, and natural resource research;

(5) Public and semi-public buildings, structures, and uses including, but not limited to fire stations, utility substations, pump stations, wells, and transmission lines;

(6) Dispersed recreation and recreation facilities such as primitive campsites, trails, trailheads, snowparks, warming huts for climbers and cross-country skiers, recreational vehicle parks, boat launches, and accessory uses;

(7) Aircraft landing fields, heliports;

(8) Watershed management facilities, including, but not limited to diversion devices, impoundments, dams for flood control, fire control, and stock watering. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(B), 1996]

17.30.470 Incidental uses.

Uses which may provide supplementary income without detracting from the overall productivity of the forestry activity. The listed uses below are allowed where the following elements are found:

(1) Required Elements.

(a) The use will not adversely affect the overall productivity of the forest nor affect more than five percent of the prime soils (15 percent as provided below in LCC 17.30.490 (3)) on any forest resource lands (including all contiguous tracts or parcels in

common ownership) on the date this chapter is effective.

(b) The use is secondary to the principal activity of forestry.

(c) The use is sited to avoid prime lands where feasible and otherwise to minimize impact on forest lands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

(a) Residential subdivision consistent with the requirements of this chapter.

(b) Saw mills, shake and shingle mills, the production of green veneer, and other products from wood residues, chippers, pole yards, log sorting and storage, debarking equipment, accessory uses including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue storage areas, and other uses involved in the harvesting and commercial production of forest products.

(c) Telecommunication facilities.

(d) The erection, construction, alteration, and maintenance of gas, electric, water, or communication and public utility facilities.

(e) Treatment of wastewater or application of biosolids when not a forest practice regulated by the state.

(f) State correction work camps to supply labor for forest management related work projects and for forest fire control.

(g) Plywood mills, particleboard plants, and drying kilns. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(C), 1996]

17.30.480 Essential public facilities.

Essential public or regulated facilities, such as roads, bridges, pipelines, utility facilities, schools, shops, prisons, and airports are facilities, which by their nature are commonly located outside of urban areas

and may need large areas of accessible land. Such areas are allowed where:

(1) Identified in the comprehensive plan of a public agency or regulated utility.

(2) The potential impact on forestry lands and steps to minimize impacts to commercial forestry are specifically considered in the siting process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.3(D), 1996]

17.30.490 Maximum density and minimum lot area.

The minimum lot area for any new subdivision, short subdivision, large lot subdivision or exempt segregation of property shall be as follows, except for parcels to be used for uses and activities provided under LCC 17.30.440 through 17.30.480:

(1) Primary Forest Land. The minimum lot area for subdivision of primary forest lands shall be 80 acres.

(2) Forest Land of Local Importance. The minimum lot area for subdivision of forest lands of local importance shall be 20 acres.

(3) Subdivision as an Incidental Use. A residential subdivision of land for sale or lease within primary or local forest lands, whether lots are over or under five acres in size, may be approved under the following circumstances.

(a) The total density, including existing dwellings, is not greater than one unit per 80 acres, for forest land of long-term commercial importance, and that one unit per 20 acres for forest lands of local importance.

(b) The units are clustered on lot sizes consistent with Lewis County board of health rules for wells and septic.

(c) Adequate water and provisions for septic are in fact present.

(d) The project affects none of the prime soils on the contiguous holdings at the time of the adoption of this chapter,

including all roads and accessory uses to serve the development; however, that prime lands previously converted to non-forestry uses are not considered prime forest lands for purposes of this section.

(e) The plat shall set aside the balance of the parcel in a designated forest tract.

(f) The plat shall contain the covenants in LCC 17.30.540.

(g) Any subdivision shall meet the cluster subdivision requirements of LCC 17.115.030(10) [Ord. 1179C §1, 2003; Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.4, 1996]

17.30.500 Setbacks.

(1) Within Lands Adjacent to or Abutting Primary Forest Resource Lands. All structures shall maintain a minimum setback of 150 feet from property lines, except for structures not requiring building permits, and 200 feet for all wells, and uses and activities provided under LCC 17.30.440 through 17.30.480; provided, however, the administrator may reduce the structure's setback where:

(a) It is not reasonable to accomplish the setback given the topography, soils, or shape of the site.

(b) The owner requesting the administrative variance records a forestry easement for the benefit of the abutting primary forest resource lands, granting a right to all normal and customary forestry practices in accordance with best management practices.

(2) Within Land Adjacent to or Abutting Forest Resource Lands of Local Importance. All structures shall maintain a minimum setback of one hundred and fifty (150) feet from property lines, except for structures not requiring building permits, and one hundred feet for all well, and uses and activities provided under LCC 17.30.440 through 17.30.480; provided,

however, that the 150-foot resource lands setback shall not be required where:

(a) The owner of lands adjacent to or abutting forest lands of local importance records a forestry easement for the benefit of the abutting forest resource lands of local importance, granting a right to all normal and customary forestry practices in accordance with best management practices. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(A), 1996; Ord. 1151A, 1997]

17.30.510 Water supply.

(1) When residential dwellings, other structures, or any other use intended to be supplied with water from off-site sources, an easement and right running with the land shall be recorded from the property owners supplying the water prior to final plat approval, building permit issuance, or regulated use approval.

(2) Due to the potential to interfere or disrupt forest practices on forest lands, new residential or recreational public water supplies shall comply with state standards and shall not be located within 100 feet of classified forest lands without an easement from the adjacent or abutting forest land property owner. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(B), 1996]

17.30.520 Access.

No permit from Lewis County shall imply any permanent vehicular access to residential properties across non-owned land. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(C), 1996]

17.30.530 Surveys.

Land surveys or other boundary line determinations shall be required in conjunction with the issuance of a building permit on property subject to the setback requirements set forth in LCC 17.30.500 to demonstrate compliance with the required setback. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(D), 1996]

**17.30.540 Notification of forest practices
- Conflict mitigation.**

(1) Continued forest management by definition requires the eventual harvesting of the trees, site preparation, and replanting. It is important that people choosing to live within or adjacent to commercial forest land be aware of the inevitability of forest practices and understand the necessary management activities that are required to harvest and sustain a future commercial forest crop. The following language indicating proximity, within 500 feet, to designated forest land shall be required on all final plats, short plats, and binding site plans approved by Lewis County.

(2) In addition, at the time of building permit issuance, applicants shall be required to sign and record with the County Auditor a statement acknowledging that their property is located within 500 feet of designated forest land and subject to customary forest practices.

(3) The following language shall be required for both plats and building permits:

NOTICE AND COVENANT: The subject property is within or near land designated for commercial forest management and subject to a variety of activities that may not be compatible with residential development for certain periods of limited duration. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, herbicides, and associated management activities. When performed in accordance with county, state, and federal law, these forest management activities are not subject to legal action or public nuisance.

(4) Where the approval is a plat pursuant to LCC 17.30.490(3), the notice shall be a covenant running with the land binding all lots within the subdivision. [Ord. 1179C §1,

2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 4.5(E), 1996]

**17.30.550 Application process for
exclusion from designation as
a forest resource land (“Opt-
out”).**

Repealed. [Ord. 1179, 2002]

**17.30.560 Process for petitioning for
designation as a forest land of
local importance (“Opt-in”).**

An “Opt-in” provision is provided for the voluntary designation of properties as forest land of local importance by the property owner(s) upon the timely written notification to the administrator of their desire for such designation. Such application for designation shall be processed as an amendment to the Comprehensive Plan and development regulations. Such amendments are processed on a yearly basis, consistent with Chapter 17.12 LCC.

(1) Criteria for Approval of Applications for Voluntary Designation of Forest Lands of Local Importance. Lewis County shall approve applications for designation as forest land of local importance if the following criteria are met:

(a) The property meets the classification criteria set forth for forest lands of local importance in LCC 17.30.430(2); and

(b) The property owner, as part of the application, provides a notarized statement that he or she will voluntarily commit the subject property to the designation for a period of 10 years from the date of any approval of the application.

(2) Process for Approval of Applications for Designation as Forest Land of Local Importance.

(a) Administrator’s Action. The administrator shall determine if the application is complete. If additional information is necessary, the application shall be returned to the property owner,

together with a list identifying the deficiencies. When the application is complete, the administrator shall consult with the persons or departments deemed necessary by the administrator to evaluate compliance with this chapter and section.

(b) Planning Review and Recommendation. The Lewis County Planning Commission shall hold a public hearing to review all application requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of publication of a legal notice in a newspaper of general circulation in Lewis County. Notice shall state the description of the property, and the purpose, date, time, and location of the hearing. Such notice shall also be mailed to all persons owning property within one-quarter mile of the subject property's boundaries. The administrator shall also post two or more notices in the vicinity of the subject property.

(c) Following the Planning Commission hearing, the Planning Commission shall make a recommendation. The administrator shall forward the recommendation to the Board of County Commissioners within 5 working days of the Planning Commission recommendation. The administrator shall also provide the applicant written notice of the Planning Commission recommendation.

(d) The Board Decision. The Board of County Commissioners shall make a final decision following the receipt of the recommendation of the Planning Commission. The Board shall hold a public hearing on the matter. The Board shall make written findings for its decision and such findings shall be available to the public upon request. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 3.8, 1996]

Article V. Agricultural Resource Lands

17.30.570 Classification.

Agricultural resource lands of Lewis County are classified according to the following: Land Capability Classification System of the U.S. Department of Agriculture Handbook No. 210.

This system of classification and identification for long-term commercially significant agricultural resource lands is based upon identified prime farmland derived from the land capability classification system of the United States Department of Agriculture Handbook No. 210. The classes of agricultural lands are based upon consideration of growing capacity, productivity, and soil composition. In further defining categories of agricultural lands of long-term commercial significance, the reference standard is the use of the classification of prime and unique farmland soils as mapped by the Natural Resource Conservation Service (NRCS), USDA.

(1) Prime Farm Lands of Long-Term Commercial Significance. For Lewis County prime agricultural soils in land capability Classes I, IIe, IIw, IIs, IIIe, IIIw, IVe, and Vw are used for this designation. Prime farmland soils commonly get an adequate and dependable supply of moisture from precipitation and/or irrigation. These soils are identified as follows:

Map Unit #	Prime Farmland Soil Description	Land Capability
1	Alvor silty clay loam	IIIw
21	Boistfort clay loam, 0-8% slopes	IIIe
42	Centralia loam, 0-8% slopes	IIe
45	Centralia Variant loam, 0-8% slopes	IIe
47	Chehalis silt loam	IIw
48	Chehalis silty clay	IIw
49	Cinebar silt loam, 0-8% slopes	Iie
61	Cloquato silt loam	IIw
84	Doty silt loam	IIs

Map Unit #	Prime Farmland Soil Description	Land Capability
86	Ferteg silt loam, 0-8% slopes	Ile
89	Galvin silt loam, 0-8% slopes	IIIw
91	Glenoma very cindery loam	IIs
116	Klaber silt loam	IIIw
117	Klaber Variant silty clay loam	IIIw
118	Lacamas silt loam, 0-3% slopes	IIIw
119	Lacamas silt loam, 3-8% slopes	IIIw
130	Melbourne loam, 0-8% slopes	Ile
133	Mossyrock silt loam	I
135	National cindery sandy loam, 0-8% slopes	IIIe
136	Nesika loam, 2-5% slopes	Ile
145	Newaukum gravelly silt loam, 5-15% slopes	IIIe
148	Newberg fine sandy loam	IIw
152	Olequa silt loam, 0-5% slopes	Ile
155	Olympic silty clay loam, 0-8% slopes	Ile
167	Prather silty clay loam, 0-5% slopes	IIw
170	Puget silt loam	IIw
171	Puyallup fine sandy loam	IIw
172	Reed silty clay loam	IIIw
173	Reed silty clay loam, channeled (if drained and protected from flooding)	Vw
187	Salkum silty clay loam, 0-5% slopes	Ile
191	Sauvola, silty clay loam, 0-8% slopes	Ile
193	Scamman silty clay loam, 0-5% slopes	IIIw
204	Schooley silt loam	IIIw
205	Semiahmoomuck (if drained)	Vw
206	Siler fine sandy loam	IIw
207	Siler silt loam	IIw
240	Wilkeson loam, 0-8% slopes	Ile
242	Winston loam, 0-8% slopes	IVe
243	Winston gravelly loam, 0-8% slopes	IIIe
244	Winston gravelly loam, 8-15% slopes	IIIe

(2) Unique Farmlands. Unique farmlands were considered, but not designated.

(3) Farmlands of Local Significance. In Lewis County many of the floodplains of the major rivers are farmed extensively and provide a critical mass in supporting local agriculture industry, even though not always on prime farm soils. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.1, 1996]

17.30.580 Identification.

In mapping of long-term commercially significant agricultural resource lands growing capacity, productivity, economic viability, proximity to populated areas, and the possibility of more intense uses of the land as indicated by one or more of the following are considered:

(1) Growing Capacity and Productivity.

(a) Land Capability. Soils shall be in Capability Classes I, II, and IIIe. Soils with limitations in the following areas shall not be considered for purposes of identification:

(i) Moderately steep slopes (greater than eight percent);

(ii) High susceptibility to water or wind erosion or severe adverse effects of erosion;

(iii) Frequent overflow accompanied by serious crop damage;

(iv) Very slow permeability of the subsoil;

(v) Wetness or some continuing waterlogging after drainage;

(vi) Shallow depths to bedrock, hardpan, fragipan, or claypan that limit the rooting zone and water storage;

(vii) Low moisture holding capacity;

(viii) Low fertility not easily corrected;

(ix) Moderate climatic limitations.

(b) Availability of Water. Sufficient irrigation capability, including precipitation

and water rights, to grow the primary agricultural crops produced in Lewis County.

(2) **Predominant Parcel Size.** Predominant parcel sizes of 20 acres or larger, which provide (in combination with soil type) the economic conditions to manage agricultural land for long-term commercial significance. However, parcels of less than 20 acres can be commercially significant in the long-term if they meet the Consolidated Farm Services Agency, USDA definition of “commercial” agriculture.

(3) **Tax Status.** Property enrolled in the open space agricultural tax program may be an indicator that the existing land use is commercial agriculture.

(4) **Availability of Public Facilities and Services.** The extension of public facilities and services conducive to the conversion of agricultural land is not provided. Lands within this designation will be located outside interim urban growth areas as defined by the incorporated cities and towns and Lewis County.

(5) **Relationship or Proximity to Urban Growth Areas.** Designated agricultural resource lands shall be located outside adopted interim urban growth areas or areas characterized by urban development and not near enough to such areas to develop potential conflicts with agricultural activities.

(6) **Land Use Settlement Patterns and Their Compatibility with Agricultural Practices.** Residential development should be minimal. Predominant uses are compatible with agricultural uses. Compatible land uses within and adjacent to designated agricultural resource land include, but are not limited to, forestry, mining, parks and preserves, and open space.

(7) **Intensity of Nearby Land Uses.** Residential development should be minimal and at rural densities (an average of one

dwelling unit per five acres) and no greater than rural density.

(8) **History of Land Development Permits Issued Nearby.** Regulated subdivision activity has not occurred adjacent to or nearby.

(9) **Floodplain Limitations Under Alternative Uses.** Use of the property for nonagricultural related activities is limited because it is in the 100-year floodplain.

(10) **Proximity of Markets.** Local or regional markets are available. The property has road, rail, or air transportation routes to markets.

(11) **Agricultural Diversity.** A diversity of agricultural activities exists or the area is capable of supporting a diversity of agricultural activities. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.2, 1996]

17.30.590 Designation.

Lands of Lewis County meeting the classification and identification criteria for agricultural resource lands are:

(1) **Class A Farmland of Long-Term Commercial Significance.** Farmland of long-term commercial significance shall be those areas having the following characteristics:

(a) Not subject to frequent overflow during the growing season accompanied by serious crop damage; and

(b) Has prime farmland soil or soils as identified in LCC 17.30.580(1)(a); and

(c) Has sufficient irrigation capability; and

(d) Is primarily devoted to commercial agricultural productions; and

(e) Has a minimum parcel size of 20 acres; and

(f) Is not located within an adopted urban growth area.

(2) **Class B Farmlands of Long-Term Commercial Significance.** Flood hazard areas associated with Type I and Type II streams provide pasture, forage, hay, crop, and other essential agricultural activities and

shall be designated as lands of long-term commercial significance where:

- (a) More than 100 yards wide;
 - (b) Larger than 20 contiguous acres;
- and
- (c) Not within an urban growth boundary.

(3) Farmland of Local Importance. The designation of farmlands of local importance is applied to those agricultural lands voluntarily nominated by the landowner which are not designated commercial farmland and meet the following criteria:

(a) Formal Designation (“Opt-In”). Farmlands of local importance shall only be designated by the board of county commissioners upon a voluntary petition for such designation by the landowner pursuant to the requirements of LCC 17.30.700. Such applications shall be processed as an amendment to the County Comprehensive Plan and development regulations.

(b) Minimum Acreage. There is no minimum acreage requirement. Farmlands of local importance shall be designated upon a showing that the property meets the Consolidated Farm Services Agency, USDA definition of “commercial” agriculture.

(c) Minimum Period for Commitment to Designation. The landowner petitioning for designation as a farmland of local importance shall be required to commit the property to remain in that designation for 10 years. The designation may be renewed by the landowner at the end of the 10-year period, provided that renewal of the designation shall not be considered an amendment to the zoning regulations.

(d) Current Agricultural Land Use. The property is currently devoted to agricultural activities. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.3, 1996]

17.30.600 Maps and inventory.

(1) This section shall apply to all lots, tracts, or parcels on designated agricultural

resource land located within the jurisdiction of Lewis County. The approximate location and extent of farm lands of long-term commercial significance shall be displayed on assessor's maps marked with significant agricultural lands on file at Lewis County and in the database of the Lewis County Geographic Information System.

(2) In the event of a conflict between the information shown on the maps referred to above and the database and information shown as a result of field investigation, the latter shall prevail.

(3) In the event any farm land of long-term commercial significance shown on the maps referenced above and the database are in conflict with the criteria of this chapter the criteria of this chapter shall prevail. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.4, 1996]

17.30.610 Uses.

The intent and purpose of this section is to maintain and enhance resource-based industries, encourage the conservation of agricultural lands, and discourage incompatible uses. All primary and accessory uses shall be entitled to protection under the protective provisions of LCC 17.30.680. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5, 1996]

17.30.620 Primary uses.

(1) Agriculture, aquaculture, viticulture, floriculture, horticulture, general farming, dairy, the raising, feeding, and sale or production of poultry, livestock, fur-bearing animals, honeybees including feeding operations, Christmas trees, nursery stock, and floral vegetation, other agricultural activities.

(2) Removal, harvesting, wholesaling, and retailing of vegetation from agricultural lands including, but not limited to, fuel wood, cones, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs, and mushrooms.

(3) One-single family dwelling unit or mobile home per lot, parcel, or tract, and the following farm housing:

- (a) Farm employee housing; or
- (b) Farm housing for immediate family members.

(4) Active mineral resource activities, including mining, processing, storage, and sales. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(A), 1996]

17.30.630 Accessory uses.

Uses allowed outright where directly connected with and in aid of an agricultural activity:

(1) Storage of explosives, fuels, and chemicals used for agriculture and forestry subject to all applicable local, state, and federal regulations;

(2) Structures accessory to farming, animal husbandry, and the growing and harvesting of timber;

(3) Agricultural, environmental, and natural resource research;

(4) Private aircraft landing fields, heliports;

(5) Watershed management facilities, including, but not limited to, diversion devices, impoundments, private dams for flood control, fire control, stock watering, and private hydroelectric generating facilities;

(6) Storage and application of agricultural waste;

(7) Disposal of farm-generated solid waste and application of biosolids. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(B), 1996]

17.30.640 Incidental uses.

Uses which may provide supplementary income without detracting from the overall productivity of the farming activity. The listed uses below are allowed where the following elements are found:

- (1) Required Elements.

(a) The use will not adversely affect the overall productivity of the farm nor affect any of the prime soils on any farm (including all contiguous tracts or parcels in common ownership) on the date this chapter is effective; provided, however, that prime lands previously converted to non crop related agricultural uses, including residential, farm and shop buildings, and associated yards, parking and staging areas, drives and roads, are not considered prime farm lands for purposes of this section.

(b) The use is secondary to the principal activity of agriculture.

(c) The use is sited to avoid prime lands and otherwise to minimize impact on farm lands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

(a) Residential subdivision consistent with the requirements of this chapter;

(b) Telecommunication facilities;

(c) Public and semipublic buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, wells, and transmission lines;

(d) Saw mills, shake and shingle mills, and the production of other products from wood residues, chippers, pole yards, log sorting and storage, debarking equipment, accessory uses including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue storage areas, and other uses involved in the harvesting and commercial production of forest products;

(e) Home based;

(f) Agribusiness (vets, auction yards, farm equipment sale and repair);

(j) Regulated treatment of wastewater. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(C), 1996]

17.30.650 Essential public facilities.

Essential public or regulated facilities, such as roads, bridges, pipelines, utility facilities, schools, shops, prisons, and airports, are facilities, which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such uses are allowed where:

(1) Identified in the comprehensive plan of a public agency or regulated utility.

(2) The potential impact on farmed lands and steps to minimize impacts to commercial agriculture are specifically considered in the siting process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.5(D), 1996]

17.30.660 Maximum density and minimum lot area.

The minimum lot area for any new subdivision, short subdivision, large lot subdivision or exempt segregation of property shall be as follows, except for parcels to be used for uses and activities provided under LCC 17.30.610 through 17.30.650:

(1) Development Standards - Division of Land for Sale or Lease. The minimum lot area for subdivision of commercial farmland shall be 20 acres; provided, however, that a residential subdivision of land for sale or lease, whether lots are over or under five acres in size, may be approved under the following circumstances:

(a) The total density of residential development on the entire contiguous ownership, including existing dwellings, is not more than one unit per 20 acres.

(b) The units are clustered on lot sizes consistent with Lewis County board of health rules for wells and septic.

(c) Adequate water and provisions septic capacity are in fact present.

(d) The project affects none of the prime soils on the contiguous holdings at the time of the adoption of the ordinance codified in this chapter, including all roads

and accessory uses to serve the development; provided, however, that prime lands previously converted to non-crop related agricultural uses, including residential, farm and shop buildings and associated yards, parking and staging areas, drives and roads, are not considered prime farm lands for purposes of this section.

(e) The plat shall set aside the balance of the prime farm lands in a designated agricultural tract.

(f) The plat shall contain the covenants and protections in LCC 17.30.680.

(g) Any subdivision shall meet the cluster subdivision requirements of LCC 17.115.030(10). [Ord. 1179C §1, 2003; Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 §5.6, 1996]

17.30.670 Setbacks.

(1) For All Non-Farm-Related Development Within Agricultural Resource Areas or on Lands Adjacent to or Abutting Agricultural Resource Lands. All structures shall maintain a minimum setback of 100 feet and all wells shall be set back 200 feet from designated agricultural tracts or any tracts used for agricultural purposes within the past five years, except for structures, uses, and activities provided under LCC 17.30.610 through 17.30.650; provided, however, the administrator may reduce the setback where:

(a) It is not reasonable to accomplish the setback given the topography, soils, or shape of the site; and

(b) The owner requesting the administrative variance records an agricultural easement for the benefit of the abutting commercial lands of significance, granting a right to all normal and customary agricultural primary or accessory practices in accordance with recommended best management practices in Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.7(A), 1996]

17.30.680 Notification of agricultural activities - Conflict mitigation.

(1) It is important that people choosing to live within or adjacent to agricultural land be aware of the inevitability of agricultural activities and understand the necessary activities that are required to sustain agricultural use of the land. The following language indicating proximity, within 1,320 feet, to designated agricultural land shall be required on all final plats, short plats, large lot subdivisions, and binding site plans or building permits approved by Lewis County within the agricultural resource areas.

(2) In addition, at the time of building permit issuance, applicants shall be required to sign and record with the County Auditor a statement acknowledging that their property is located within 1,320 feet of designated agricultural area and that if consistent with good and materially accepted agricultural and management practices and established prior to surrounding activities, are presume to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

(3) The language required is as follows:

NOTICE AND COVENANT: The subject property is within or near land designated for long-term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal workday and/or work week. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices, these agricultural activities are to be expected, consented to by the

developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Lewis County Right-to-Farm Ordinance No. 1119).

(4) Where the approval is a plat pursuant to LCC 17.30.660(1), the notice shall be a covenant running with the land binding all lots within the subdivision. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.7(B), 1996]

17.30.690 Application process for exclusion from designated commercial farmland (“Opt-out”).

Repealed. [Ord. 1179, 2002]

17.30.700 Process for petitioning for designation as a farmland of local importance (“Opt-in”).

An “Opt-in” provision is provided for the voluntary designation of properties as farm land of local importance by the property owner(s) upon the timely written notification to the administrator of their desire for such designation. Such application for designation shall be processed as an amendment to the Comprehensive Plan and development regulations. Such amendments are processed on a yearly basis, consistent with Chapter 17.12 LCC.

(1) Criteria for Approval of Applications for Voluntary Designation of Farm Lands of Local Importance. Lewis County shall approve applications for designation as farm land of local importance if the following criteria are met:

(a) The property meets the classification criteria set forth for farm lands of local importance in LCC 17.30.590(3); and

(b) The property owner, as part of the application, provides a notarized statement that he or she will voluntarily commit the subject property to the

designation for a period of not less than 10 years from the date of any approval of the application.

(2) Process for Approval of Applications for Designation as Farm Land of Local Importance.

(a) Administrator's Action. The administrator shall determine if the application is complete. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the administrator shall consult with the persons or departments deemed necessary by the administrator to evaluate compliance with this chapter and section.

(b) Planning Review and Recommendation. The Lewis County Planning Commission shall hold a public hearing to review all application requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of publication of a legal notice in a newspaper of general circulation in Lewis County. Notice shall state the description of the property, and the purpose, date, time, and location of the hearing. Such notice shall also be mailed to all persons owning property within one-quarter mile of the subject property's boundaries. The administrator shall also post two or more notices in the vicinity of the subject property.

(c) Following the Planning Commission hearing, the Planning Commission shall make a recommendation. The administrator shall forward the recommendation to the Board of County Commissioners within 5 working days of the Planning Commission recommendation. The administrator shall also provide the applicant written notice of the Planning Commission recommendation.

(d) The Board Decision. The Board of County Commissioners shall make a final

decision following the receipt of the recommendation of the Planning Commission. The Board shall hold a public hearing on the matter. The Board shall make written findings for its decision and such findings shall be available to the public upon request. [Ord. 1179C §1, 2003; Ord. 1179, 2002; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.10, 1996]

17.30.710 Nonregulatory incentives.

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the agricultural resource lands regulations contained in this chapter when determining the fair market value of land.

(b) Any owner of an agricultural resource land who has dedicated a conservation easement to or entered into a perpetual conservation restriction with a department of the local, state, or federal government, or to a nonprofit organization to permanently control some or all of the uses and activities within this area, may request that the Lewis County assessor re-evaluate that specific area with those restrictions.

(c) The administrator shall notify the assessor's office of any application of this chapter, which results in building restrictions on a particular site.

(2) Open Space. Subject to the criteria established by law, any person who owns a designated agricultural resource land as identified by this section may apply for current use assessment pursuant to Chapter 84.34 RCW. The Open Space Tax Act allows Lewis County to designate lands which should be taxed at their "current use value." The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 5.10, 1996]

Article VI. Mineral Resource Lands

17.30.720 Classification.

Mineral resource lands of Lewis County are classified according to the following:

(1) Existing Permitted Surface Mining Operations. The contiguous ownership of existing permitted mining operations (including dormant operations) operating under authority of Chapter 78.44 RCW, the Washington State Surface Mining Act, where the remaining operation has extractive minerals valued in excess of \$1,000,000.

(2) Areas Containing Mineral Deposits the Significance of Which Cannot Be Evaluated from Available Data.

(a) Areas where a qualified geologist can demonstrate a high likelihood for occurrence of mineral deposits. A qualified geologist shall provide adequate evidence, for the above, in the form of a report and any associated maps that would provide evidence of mineral resources sufficient to meet the following criteria:

(i) The site has extractive materials having a probable value in excess of \$500,000 for valuable metallic substances and \$1,000,000 for gravel, sand, coal, and other minerals; and

(ii) The site has the potential for economically viable production of extractive materials for the foreseeable future;

(b) Greater than 50 percent of the linear frontage of the perimeter of any proposed designated lands shall abut parcels that are equal to or greater than two and one-half acres in size. Abutting parcels with industrial or wholesale uses are exempt from this parcel size calculation but shall be included in the calculation of total linear frontage; and

(c) The site is outside any designated urban growth area at the time of application for redesignation.

(3) Mines of Local Importance. Mines not otherwise meeting the criteria noted

above certified by a qualified geologist as having significant economic importance either due to its location or nature, quantity, or quality of mined product. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.1, 1996]

17.30.730 Designation.

(1) Lands of Lewis County meeting the classification criteria set forth in LCC 17.30.720(1) are designated as mineral resource lands of long-term commercial significance. Other lands may be designated pursuant to LCC 17.30.850 within 90 days of the effective date of the ordinance codified in this chapter upon a finding of meeting the classification criteria set forth in LCC 17.30.720(1) by the board of county commissioners.

Lands which have been erroneously designated as mineral resource lands of long-term commercial significance may petition for exclusion from that designation through the process set forth for such exclusion in LCC 17.30.840.

(2) Other lands of Lewis County meeting the classification criteria set forth in LCC 17.30.720(2) or (3) are eligible for designation as mineral resource lands of long-term commercial significance subject to approval of a redesignation application pursuant to LCC 17.30.850.

Mineral resource land may be so designated upon initiation either of the county or a property owner or owners. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.2, 1996]

17.30.740 Maps and inventory.

(1) The sand and gravel and ledge rock testing inventory of the Washington State Department of Transportation (WSDOT) Materials Testing Laboratory ("Approved Source of Materials - Lewis County Pits") or any material to be tested in the future that meets WSDOT specifications.

(2) U.S. Department of the Interior, Geological Survey Bulletin 1053, 1958, "Geology and Coal Resources of the Centralia-Chehalis District, Washington."

(3) Washington Department of Natural Resources, Division of Geology and Earth Resources Bulletin 47, 1984, "Coal Reserves of Washington."

(4) Washington Department of Natural Resources, Division of Geology and Earth Resources, Map GM-22, 1978, "Mineral Resources of Washington."

(5) Washington Division of Mines and Geology Bulletin 37, "Inventory of Washington Minerals," Part I, "Nonmetallic Minerals," 1960; Part II, "Nonmetallic Minerals," 1956; and subsequent updates thereto. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.3, 1996]

17.30.750 Primary uses.

(1) Quarrying and mining of minerals or material, including, but not limited to, sand and gravel, sand, rock, clay, coal, and valuable metallic and nonmetallic substances.

(2) The exploitation, primary reduction, treatment, and processing of minerals or materials, together with the necessary buildings, structures, apparatus, or appurtenances on said property where at least one of the major mineral or material constituents being exploited is from said property, including, but not limited to, concrete batching, asphalt mixing, brick, tile, terra cotta, and concrete products, manufacturing plants, and rock crushers and the use of accessory minerals and materials from other sources necessary to convert the minerals and materials to marketable products.

(3) Agricultural crops, open field growing, stock grazing, and the harvesting of any wild crop such as marsh hay, ferns, moss, berries, etc. which may coexist with mineral extraction activities within a common ownership.

(4) Existing surface mining operations, operating under the authority of the Washington State Surface Mining Act, Chapter 78.44 RCW.

(5) Mining-related activities and structures.

(6) The maintenance of gas, electric, water, communication, and public utility facilities.

(7) Residences existing at the time of adoption of the ordinance codified in this chapter and any accessory uses, including home occupations associated with such residences. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(A), 1996]

17.30.760 Accessory uses.

Uses allowed outright where directly connected with and in aid of a mining activity:

(1) One single-family dwelling or mobile home per contiguous ownership or one single-family dwelling or mobile home per 10-acre unit of that contiguous ownership, whichever is the lesser acreage;

(2) Home occupations associated only with the dwelling;

(3) Buildings accessory to a single-family dwelling or mobile home, such as garages, storerooms, woodsheds, laundry rooms, playhouses, greenhouses, hobby shops, animal or fowl shelters, or similar and related accessory uses;

(4) Storage of explosives, fuels, and chemicals used for agriculture, mining, and forestry subject to all applicable local, state, and federal regulations;

(5) Watershed management facilities including, but not limited to, diversion devices, impoundments, dams for flood control, fire control, stock watering, and hydroelectric generating facilities, when associated with a permitted use or structure. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(B), 1996]

17.30.770 Incidental uses.

Uses which may provide supplementary income without detracting from the overall productivity of the mining activity. The listed uses below are allowed where the following elements are found:

(1) Required Elements.

(a) The use will not adversely affect the overall productivity of the mining activity.

(b) The use is secondary to the principal activity of mining.

(c) The use is sited to avoid prime lands where feasible and otherwise to minimize impact on mineral lands of long-term commercial significance.

(2) Uses Allowed as Incidental Activities.

(a) The growing and harvesting of forest products, the operation of portable sawmills and chippers and activities and structures incidental to each, and accessory facilities including, but not limited to, scaling and weigh stations, temporary crew quarters, storage and maintenance facilities, residue storage and disposal areas, and other uses and facilities involved in the harvesting and commercial production of forest products which may coexist with mineral extraction activities within a common ownership.

(b) Public and semipublic buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, and wells.

(c) Commercial extraction and processing of oil, gas, and geothermal resources.

(d) Permanent saw mills, shake and shingle mills, plywood mills, green veneer plants, particle board plants and other products from wood residues, chippers, pole yards, log sorting and storage, buildings for debarking, and drying kilns and equipment.

(e) Structures for agriculture, floriculture, horticulture, general farming,

dairy, the raising, feeding and sale or production of poultry, livestock, fur-bearing animals, honeybees including feeding operations, Christmas trees, nursery stock, and floral vegetation and other agricultural structures accessory to farming and animal husbandry.

(f) Forestry, environmental, and natural resource research facilities.

(g) Telecommunication facilities and electrical transmission lines. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(C), 1996]

17.30.780 Essential public facilities.

Essential public or regulated facilities, such as roads, bridges, pipelines, and other utility transmission facilities, are facilities which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such areas are permitted where:

(1) Identified in the comprehensive plan of a public agency or regulated utility.

(2) The potential impact on mineral lands is specifically considered in the siting process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.4(D), 1996]

17.30.790 Standards for existing permits.

All mining sites for which state or federal mining permits are required and which are subject to this chapter shall be subject to the conditions of those permits. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(A), 1996]

17.30.800 Lot size/density.

Prior to full utilization of a designated mineral resource land's mineral resource potential, subdivisions, short subdivisions, and large lot segregations below 10 acres are prohibited. Exceptions may be made, if it is found by Lewis County to be a necessary part of or accessory to mining operations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(B), 1996]

17.30.810 Setbacks - Buffers.

(1) Within Designated Mineral Resource Lands. Mining operations which are operating under valid state or federal surface mining permits shall use the setback and/or buffer standards contained within any reclamation plan required pursuant to the state or federal laws pertaining to mining land reclamation.

(2) Within Lands Abutting Mineral Resource Lands. Structures requiring a building permit shall maintain a minimum 50-foot setback from the boundary of any designated mineral resource land; provided, however, the administrator may reduce the setback where:

(a) It is not reasonable to accomplish the setback given the topography, soils, or shape of the site.

(b) The owner requesting the administrative variance records a mineral resources easement for the benefit of the abutting commercial lands of significance, granting a right to all normal and customary mineral extraction and processing practices in accordance with best management practices. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(C), 1996]

17.30.820 Preferential right to manage resources - "Right-to-mine".

(1) Applicability. Within designated Mineral resource lands in Lewis County, there is established a preferential right to mine.

(2) Description of Preferential Rights.

(a) No resource use or any of its appurtenances shall be, be adjudged to be, or become a nuisance, public or private, by any changed conditions in or about the locality thereof after the same has been in operation for more than one year, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or

improper operation of any such operation or its appurtenances.

(b) A resource operation shall not be found to be a public or private nuisance if the operation conforms to local, state, and federal law.

(c) This chapter shall supersede any and all ordinances, or portions of ordinances, as the case may be, of the county now in effect or hereafter adopted that would otherwise make the operation of any such resource operation or its appurtenances a nuisance; provided, however, that the provisions of this subsection shall not apply whenever a nuisance results from the neglect or improper operation of any such resource operation or any of its appurtenances. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(D), 1996]

17.30.830 Mining use notices.

(1) For Properties Designated Mineral Resource Land Pursuant to the Application of the Property Owner under LCC 17.30.850. Within two weeks of designation as mineral resource land, pursuant to LCC 17.30.850, the property owner(s) of said land shall submit to the administrator, or the administrator may thereafter submit, for recording with the county auditor a written notice of designation. This notice shall be in a form authorized by the administrator and shall include the following:

(a) The legal description of the property subject to the designation.

(b) The sixteenth section or sections in which lie the following:

(i) The designated property; and

(ii) Any other property within one-quarter (1/4) mile of the boundary of the designated property.

(c) The following statement:

The property described herein is adjacent to or within 1/4 mile of land managed for commercial mining. Mining operations may be carried out now or in the future. Lewis County has established designated Mineral Resource Land that sets as a priority the use of these lands for mining and allows commercial forest management and agriculture. The normal and usual practices associated with said operations when performed in accordance with county, state, and federal law, shall not be subject to legal action as a public or private nuisance.

(2) For Properties Designated Mineral Resource Land Pursuant to LCC 17.30.730(1). Within four months of the effective date of the ordinance codified in this chapter, the administrator shall submit to the county auditor for recording a written notice of all designated mineral resource lands. This notice shall be in a form similar to subsection (1) of this section.

The administrator shall execute and acknowledge the notice, and no affected property owner shall be charged a fee for recording the notice.

(3) For All Properties Within One-Quarter Mile of Designated Mineral Resource Land. All plats, short plats, binding site plans, and building permits issued by Lewis County after the effective date of the ordinance codified in this chapter for development activities on any property designated as mineral resource land or within one-quarter mile thereof, shall contain a notice as specified in subsection (1)(c) of this section; which shall be recorded with the Lewis County Auditor. With any plat approval, the notice shall be a covenant running with the land, binding all lots within the subdivision. [Ord. 1179C §1, 2003; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.5(E), 1996]

17.30.840 Process for petitioning for exclusion from designation as a mineral resource land (“Opt-out”).

Repealed. [Ord. 1179C §1, 2003]

17.30.850 Process for petitioning for designation as a mineral resource land (“Opt-in”).

An “Opt-in” provision is provided for the voluntary designation of properties as mineral resource land by the property owner(s) upon the provision of written notification to the administrator of their desire for such designation. Such application for designation shall be processed as an amendment to the Comprehensive Plan and development regulations. Such amendments are processed on a yearly basis, consistent with Chapter 17.12 LCC.

(1) Criteria for Approval of Applications for Voluntary Designation of Mineral Resource Land. Lewis County shall approve applications for designation of mineral resource land if the following criteria are met:

(a) The property meets the classification criteria for mineral resource lands set forth in LCC 17.30.720; and

(b) The property owner, as part of the application, provides a notarized statement that he or she will voluntarily commit the subject property to the designation for a period until full utilization of the mineral resource potential occurs.

(2) Process for Approval of Applications for Voluntary Designation as Mineral Resource Land.

(a) Administrator's Action. The administrator shall determine if the application is complete. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the administrator shall consult

with the persons or departments deemed necessary by the administrator to evaluate compliance with this chapter and section.

(b) Planning Commission Review and Recommendation. The Lewis County planning commission shall hold a public hearing to review all application requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of publication of a legal notice in a newspaper of general circulation stating the description of the property, and the purpose, date, time, and location of the hearing. Such notice shall also be mailed to all persons owning property within one-quarter mile of the subject property's boundaries. The administrator shall also post two or more notices in the vicinity of the subject property.

Following the planning commission hearing, the planning commission shall make a recommendation. The administrator shall forward the recommendation to the board of county commissioners within 15 working days of the planning commission recommendation. The administrator shall also provide the applicant written notice of the planning commission recommendation.

(c) Board Decision. The board of county commissioners shall make a final decision following the receipt of the recommendation of the planning commission. The board may hold a public hearing on the matter. The board shall make written findings for its decision available to the public upon request. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1151 § 6.7, 1996]

Chapter 17.35

CRITICAL AREAS

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Article I. Purpose

17.35.010 Statement of authority and title.

This chapter is established pursuant to RCW 36.70A.060 and shall be known as the “Lewis County Interim Critical Areas Ordinance.” [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.1, 1996]

17.35.020 Statement of purpose and goals.

The purpose of this chapter is to identify and protect critical areas and protect human health and safety as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990) by supplementing the development regulations contained in various ordinances of Lewis County and other applicable state and federal laws by providing additional controls and measures to protect critical areas and human health and safety. This chapter is adopted under the authority of Chapters 36.70A and 36.70 RCW.

This chapter is premised on a perceived community vision that calls for minimum critical areas designations and protection standards, consistent with the requirements of Chapter 36.70A RCW.

The intent of this chapter is to facilitate the processing of relevant land use and development applications in a timely fashion with minimum intrusion on individual freedom, with a maximum of consistency and predictability. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.2, 1996]

17.35.030 Statement of policy.

(1) It is a policy of Lewis County that the beneficial functions, structures, and values of critical areas be protected as identified in this chapter, and further that potential dangers or public costs associated with inappropriate use of such areas be eliminated or substantially reduced by reasonable regulation of uses within, adjacent to, or directly affecting such areas. Reasonable regulation shall be achieved by the balancing of individual and collective interests.

(2) The county-wide planning policies identified private property rights as the primary priority and all applications of this chapter shall be cognizant and consistent with private property rights.

(3) No permit granted pursuant to this chapter shall remove an applicant's obligations with respect to applicable provisions of any other federal, state, or local law or regulation, including, but not limited to, the acquisition of any other required permit or approval.

(4) Mitigation Priorities.

(a) Avoid the impact altogether by not taking a certain action or parts of any action where reasonable noncritical area alternatives are available;

(b) Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reduce or eliminate the impact over time by preservation and maintenance of critical area functions during the life of the action;

(e) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments in lieu of critical areas impacted; and/or

(f) Monitor the impact and take appropriate corrective measures where appropriate.

(5) Mitigation Application.

(a) Lewis County respects the right of property owners to use their property consistent with the guidelines presented. Priorities in subsection (4) of this section are preferences to guide development and may be mixed to facilitate reasonable use of property, with increasing mitigation applied to the greater impacts to protect the functions, systems, and values identified.

(b) The priorities in subsection (4) of this section shall not be used to deny a permit for activities specifically authorized in critical areas or buffers where reasonable noncritical area alternatives are not available.

(6) The assessor is required to consider the impacts on property values which the restrictions in this chapter in assessing property in Lewis County.

(7) Existing property uses shall not be affected by this chapter. This chapter will apply only when regulations require a development permit from Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.3, 1996]

17.35.040 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Liberally construed to serve the purpose of this chapter.

(2) Deemed neither to limit nor repeal any other powers under state statute.

(3) Considered adequate mitigation under SEPA unless a proposed use or activity poses an unusual or extraordinary risk to a critical area system. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.4, 1996]

17.35.050 Duration.

The development regulations for critical areas, as set forth in this chapter, shall be

reviewed during consideration of the implementing regulations for the Lewis County comprehensive plan, adopted pursuant to Chapter 36.70A RCW. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.5, 1996]

17.35.060 Judicial review.

Judicial review of any final decision made hereunder shall be appealable pursuant to the Land Use Appeals Act, Chapter 36.70C RCW. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 1.7, 1996]

Article II. Definitions

17.35.070 Administrator.

“Administrator” means the planning manager of the Lewis County department of community development or his or her designee.* [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.075 Agricultural activities - Existing and on-going.

“Agricultural activities” means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and/or raising or keeping livestock. Agricultural activities include associated activities, including the operation and maintenance of farm and stock ponds, drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, and normal operation, maintenance, and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Agricultural activities include, but are not limited to, growing mint, bulb farming, haying, growing blueberries, hybrid poplars, Christmas trees, and other nursery and horticultural activities which may involve any rotation, not otherwise classified as a forest practice. To assure preservation of

agricultural land, the ability to switch from one crop or activity to another to meet market forces is essential and shall be considered “existing and ongoing agricultural” use when such conversions occur. Further, land devoted to agricultural purposes shall be considered existing and on-going even if in-between crop activities are limited to haying or grazing. Land shall cease to be existing and ongoing agriculture if (1) platted or otherwise developed for nonagricultural purposes or (2) converted to nonagricultural use.

Forest practices not regulated under Chapter 76.90 RCW and WAC Title 222 are not included in this definition. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.080 Alluvial fan.

“Alluvial fan” means a low, outspread, relatively flat to gently sloping mass of loose rock and soil, shaped like an open fan or segment of a cone, deposited by streams or debris flows where they issue from narrow, steep valleys upon a plain or broad valley or wherever the gradient of the stream suddenly decreases. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.085 Alteration.

“Alteration” means a human-induced action, which materially affects a regulated critical area, such as a physical change to the existing condition of land or improvements containing, but not limited to construction, clearing, filling, and grading. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.090 Aquifer.

“Aquifer” means a saturated permeable geologic unit that can transfer significant quantities of water under ordinary hydraulic gradients. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.095 Aquifer recharge area.

“Aquifer recharge area” means the area in which rainwater and other surface waters percolate downward through surface soil and underlying geologic formations that are permeable enough to allow significant additions of water to an underlying aquifer that is a source of drinking water that is vulnerable to contamination that would affect the potability of the water. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.100 Best management practices (BMPs) - Wetlands section.

“Best management practices (BMPs),” for the wetlands section, means conservation practices or systems of practices and management measures that:

(1) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and

(2) Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.105 Best management practices (BMPs) - Aquifer recharge areas section.

“Best management practices (BMPs),” for the aquifer recharge areas section, means physical, structural, and or managerial practices that when used singly, or in combination, prevent or reduce the adverse environmental impacts to or pollution of ground water. Such practices may include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, to prevent or reduce pollution of ground water. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge, or water disposal, or drainage for

raw material storage. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.110 Buffer - Geologically hazardous area.

For the purpose of the geologically hazardous area section, a “buffer” is an area established to protect the integrity or functions and values of a geologically hazardous area from potential adverse impacts. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.115 Buffer - Stream and habitat critical areas.

For purposes of the stream and habitat critical area sections, a “buffer” means an undisturbed area of native vegetation to protect the integrity, functions, and values of the affected habitat and shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.120 Classification.

“Classification” means defining value and hazard categories to which critical areas will be assigned. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.125 Clearing.

“Clearing” means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site, which exposes the soil, but not including activities normally associated with agriculture, home gardening, or permitted timber and mining activities under any of the permits identified in LCC 17.35.630(2). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.130 Commercially viable use of land.

“Commercially viable use of land” means a use, which will return an economic return to the land and for which commercial

financing is normally and reasonably available. The fact that other uses may create a higher return or land value is irrelevant. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.135 Compensation project.

“Compensation project” means actions necessary to replace project-induced critical area and associated buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.140 Critical area functions.

“Critical area functions” means the physical, chemical, and biological processes or attributes of a critical area. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.145 Critical area values.

“Critical area values” means the critical area processes or attributes that are valuable or beneficial to society. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.150 Critical areas.

“Critical areas” means all wetlands, frequently flooded areas, aquifer recharge areas, fish and wildlife habitat conservation areas, and geologically hazardous areas, as those terms are used and defined herein. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.155 Critical facilities.

“Critical facilities” means facilities for which a significant chance of damage as a result of a geological hazard would be too great. Critical facilities include, but are not limited to, schools; hospitals; police, fire, and emergency response installations; nursing homes; and installations which produce, use, or store hazardous materials or hazardous waste. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.160 Dangerous wastes.

“Dangerous wastes” means those wastes designated in WAC 173-303-070 through 173-303-120 as dangerous or extremely hazardous or mixed waste. As used in Chapter 173-303 WAC, the words “dangerous waste” will refer to the full universe of wastes regulated by that chapter, and will be used interchangeably with “hazardous waste.” [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.165 Debris flow.

“Debris flow” means the rapidly downslope-moving mass of a viscous water-saturated mixture of rock fragments, soil, and mud, more than half of the particles being larger than sand size. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.170 Designation.

“Designation” means taking a formal legislative action to adopt classifications, inventories, and regulations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.175 Determination.

“Determination” means an action by an agency or individual qualified in the science of identification and delineation of a critical area to identify, characterize, and/or locate a critical area. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.180 Erosion control.

“Erosion control” means on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.185 Erosion hazard areas.

“Erosion hazard areas” means those areas identified by the United States Department of Agriculture Soil

Conservation Service as having “severe” rill and inter-rill erosion hazard and areas subject to severe streambank erosion. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.190 Extraordinary hardship.

“Extraordinary hardship” means the strict application of this chapter and/or programs adopted to implement this chapter by the administrator would cause or create severe financial loss, unreasonable safety risk, or health harm to the party seeking exception, waiver, or variance under this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.195 Fish and wildlife habitat conservation areas.

“Fish and wildlife habitat conservation areas” means all lands within the following categories:

(1) Areas with which “priority species” as defined by the Washington Department of Wildlife have a primary association.

(2) “Priority habitats” as identified by the Washington Department of Fish and Wildlife. Priority habitats are areas with one or more of the following attributes pertaining to state species listed as endangered or threatened: comparatively high wildlife density, high wildlife species richness, significant wildlife species richness, significant wildlife breeding habitat, significant wildlife seasonal ranges, significant movement corridors for wildlife, limited availability, and/or high vulnerability.

(3) Naturally occurring ponds each over one-half acre and under 20 acres and their wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds of less than three years' duration, and landscape amenities. However, naturally occurring

ponds shall include those artificial ponds intentionally created with the approval of a regulatory authority from dry areas to mitigate adverse impact upon other ponds.

(4) Lakes, ponds, streams, and rivers planted with game fish as defined by RCW 77.08.020, including fish planted under the auspices of federal, state, local, or tribal programs, or which support priority fish species as identified by the Washington Department of Fish and Wildlife. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.200 Fish and wildlife habitat critical areas (FWHCA).

“Fish and wildlife habitat critical areas (FWHCA)” means land area which meets the definition of a “fish and wildlife habitat critical area” pursuant to WAC 365-190-080(5) and is essential for maintaining specifically listed species in suitable habitats. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.205 Flood - Flooding.

“Flood” or “flooding” means a general or temporary condition of partial or complete inundation of normal dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.210 Forest practice.

“Forest practice” means any activity regulated by Chapters 222-12 through 222-50 WAC. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.215 100-year flood - Base flood.

“100-year flood” or “base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. For purposes of this chapter, Lewis County adopts the Federal Emergency

Management Act (FEMA) flood hazard classifications. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.220 Frequently flooded areas.

“Frequently flooded areas” means the floodways and associated floodplains designated by FEMA on the area flood hazard maps for Lewis County dated December 15, 1981. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.225 Geologically hazardous areas.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.230 Ground water.

“Ground water” means that part of the subsurface water that is in the zone of saturation (below the water table), as distinct from vadose water (above the water table). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.235 Habitat management plan.

“Habitat management plan” means a plan prepared for a regulated wildlife habitat critical area and intended to provide for the site-specific protection of endangered, threatened, and sensitive species and their habitats. The plans are to be based on the unique characteristics of the species, as well as surrounding land uses in relation to the proposed activity and landowner goals. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.240 Hazardous substances.

“Hazardous substances” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or

waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.245 High intensity uses.

“High intensity uses” means uses which by their nature have the potential for significant impact and will be regulated using a review process coupled with SEPA review, or, for SEPA exempt properties, substantially similar to SEPA review. Except as provided herein, high intensity uses shall include all uses not specifically identified as low intensity uses. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.250 Hydric soil.

“Hydric soil” means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of a hydric soil shall be determined following the methods described in the 1987 Corps of Engineers Wetlands Delineation Manual. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.255 Incidental amounts.

“Incidental amounts” means amounts unlikely to create negative health and/or safety impacts. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.260 Land use development permits.

“Land use development permits” means all subdivision approvals including short plats, preliminary plat approvals, shoreline substantial development permits, site plans for mobile home parks, building permits for any new structure or which increase an existing structure's floor area by more than 10 percent; building permits for structures that have associated grading or filling activity in excess of 100 yards; and road

approval permits for other than single-family homes. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.265 Landslide hazard areas.

“Landslide hazard areas” means areas potentially subject to landslides based on a combination of geologic, topographic, and hydrogeologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.270 Low intensity uses.

“Low intensity uses” means uses, which by their nature generally have a low or moderate impact on the environment in which they occur and will be regulated using a single or short form of approval. Except as provided, low intensity uses shall include:

(1) Agricultural uses, except those uses involving:

(a) Livestock in excess of grazing best management practices recommended by the Natural Resources Conservation Service;

(b) Machinery storage, fueling, and maintenance; or

(c) Storage of petroleum, fertilizers, pesticides, and herbicides.

(2) Residential uses with less than 35 percent impervious surface of the parcel.

(3) Commercial uses with less than 50 percent impervious surface, less than 5,000-square-foot buildings, and all storm water treated through storm drains consistent with county standards.

(4) Any use similar in size, scale, and impact to uses (1) to (3) where the rate of the storm water discharged from the site is less than 110 percent of the rate storm water discharged in a predevelopment state, and all storm water discharged to the wetland has been treated through storm drains consistent with county standards. [Ord.

1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 2, 1996]

17.35.275 Mine hazard areas.

“Mine hazard areas” means areas underlain by, adjacent to, or affected by mine workings such as adits (mine entrances), gangways (haulage tunnels), drafts, or air shafts. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.280 Mitigation.

“Mitigation” means actions taken to replace or enhance critical area functions impacted by a land use development permitted under this chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.285 Mudflow.

“Mudflow” means a general term for a mass-movement landform and a process characterized by a flowing mass of predominantly fine-grained earth material possessing a high degree of fluidity during movement. If more than half of the solid fraction of such a mass consists of material larger than sand size, the term “debris flow” is preferable. The water content of mudflows may range up to 60 percent with increasing fluidity, mudflows grade into muddy floods; with less fluidity, they grade into earthflows. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.290 Native vegetation.

“Native vegetation” means plant species, which are indigenous to the site in question. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.295 Person.

“Person” means an individual, firm, copartnership, association, corporation, or other legal entity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.300 Priority habitats.

“Priority habitats” means areas associated with a species listing by the Washington State Department of Fish and Wildlife, Priority Habitat and Species Program and which, if altered, may reduce the likelihood that the species will maintain or increase its population over the long term. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.305 Priority habitat and species database.

“Priority habitat and species database” means the database for the Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species (PHS) Program which provides the following three products:

- (1) Lists of the WDFW's most important habitats and species;
- (2) Management recommendations for each priority habitat and species; and
- (3) Maps showing the geographic location of priority habitats and species. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.315 Priority species.

“Priority species” means animal species listed by the Washington State Department of Fish and Wildlife, Priority Habitat and Species Program, that are of concern due to their low population and/or their sensitivity to habitat manipulation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.320 Protection.

“Protection” means action to avoid or mitigate impacts to critical areas consistent with the requirements of this chapter may be applied consistent with priorities, in order to preserve the structure, values, and functions of the natural environment. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.325 Pyroclastic flow.

“Pyroclastic flow” means the geologic process and products of hot clouds of ash, volcanic rock, and gas that flow rapidly downslope under gravity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.330 Qualified critical area professional.

“Qualified critical area professional” means a person with experience, education, and professional degrees and/or training pertaining to the critical area in question, and with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The administrator may require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.335 Secondary containment.

“Secondary containment” must be:

- (1) Impervious to the materials held in the primary container(s).
- (2) Large enough to hold 100 percent of the material in the largest container, or 10 percent of the total volume of all containers, or whichever volume is larger.
- (3) Large enough to also hold rainwater which would reasonably be expected to collect in 24 hours during a major storm, if the containment is exposed to the weather. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.340 Seismic hazard areas.

“Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.345 Sensitive, endangered, threatened species.

Lewis County adopts the state definitions as set forth in WAC 232-12-001, 232-12-011, and 232-12-014. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.350 Septage waste.

“Septage waste” means septic tank or holding tank pumpage which has not been subject to a wastewater treatment process. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.355 Sewage sludge.

“Sewage sludge” means semisolid matter consisting of settled sewage solids combined with varying amounts of water and dissolved material, remaining after the completion of wastewater treatment. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.360 Significant.

“Significant” means a condition, which would have a negative impact on human health and/or safety as determined by a recognized authority. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.365 Significantly affect the quality.

“Significantly affect the quality” means a measurable impact on characteristics thereof, on a relative or absolute basis, of which more than a moderate level of effect is a reasonable probability. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.370 Storm water management facilities.

“Storm water management facilities” include biofiltration swales, filter strips, bubble diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat storm waters, and include ditches designed and intended primarily for conveyance.

[Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.375 Streams.

“Streams” means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates clear evidence of the passage of water, including, but not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water during the entire year. This definition does not include watercourses which were created entirely by artificial means, such as irrigation ditches, canals, roadside ditches, or storm or surface water runoff features, unless the artificially created watercourse contains salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created watercourse. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.380 System function and values.

“System function and values” is a technical term used to identify the role of a critical area in a given area as opposed to its mere physical presence and size; used most often when comparing alternatives for mitigation purposes. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.385 Utility lines.

“Utility lines” means a pipe, conduit, cable, or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electrical power, gas, communications, and storm water or sanitary sewer transport facilities. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.390 Volcanic hazard areas.

“Volcanic hazard areas” means areas subject to pyroclastic flows, lava flows,

debris avalanche, inundation by debris flows, mudflows, or related flooding from volcanic activity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.395 Water table.

In pervious granular materials the “water table” is the upper surface of the body of free water which completely fills all openings in material sufficiently pervious to permit percolation. In fractured impervious rocks and in solution opening, it is the surface at the contact between the water body in the openings and the overlying ground air. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.400 Watershed.

“Watershed” means an area draining to the surface water systems of the Chehalis, Cowlitz, Deschutes, or Nisqually Rivers. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.405 Wetland - Wetlands.

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate the conversion of

wetlands. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.410 Wetland buffer, buffer, or buffer zones.

“Wetland buffer,” “buffer,” or “buffer zones” means areas that surround and protect critical areas from adverse impacts to their functions and values. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

17.35.415 Wetland enhancement.

“Wetland enhancement” means a type of mitigation performed to improve the condition of existing degraded wetlands so that the functions and values provided are of a higher quality. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 2, 1996]

17.35.420 Wetland functions and values.

A given wetland may provide one or more functions, which fall into two classes: (1) human health and safety and (2) public welfare. Human health and safety functions include floodwater storage, water purification, and (in limited situations) aquifer recharge. Public welfare functions include wildlife habitat. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 2, 1996]

Article III. General Requirements

17.35.430 Applicability.

This chapter classifies and designates critical areas in Lewis County and establishes regulations for the protection of critical areas, human health, and safety. Lewis County shall not grant any permit, license, or other development approval to alter the condition of any land, water, or vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this

chapter, except in compliance with the provisions of this chapter. Failure to comply with the provisions of this chapter shall be considered a violation and subject to enforcement procedures. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.1, 1996]

17.35.440 Relationship to other regulations.

Areas characterized by a particular critical area may also be subject to other regulations due to the overlap of multiple functions of critical areas. In the event of any conflict between these regulations and other regulations of the county, the regulations which provide the greater protection for the particular critical areas still apply. No permit granted pursuant to this chapter shall remove the applicant's obligation to comply in all respects with provision of any federal, state, or local law or regulation. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.2, 1996]

17.35.450 General exemptions.

The following activities shall be exempt from the provisions of this chapter:

(1) Existing and on-going agricultural activities on lands designated as critical areas on the effective date of the ordinance codified in this chapter;

(2) Normal and routine maintenance and operation of existing irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons, and livestock water ponds; provided, that such activities do not involve conversion of any critical area not being used for such activities to another land use;

(3) Construction, maintenance, operation, repair, or replacement of existing utility facilities and associated rights-of-way, including but not limited to reasonable access roads;

(4) Passive recreational uses, sport fishing or hunting, scientific or educational

review, or similar minimal impact, nondevelopment activities;

(5) Site investigative work required by a city, county, state, or federal agency in conjunction with the preparation of a land use application submittal such as surveys, soil logs, percolation tests, and other related activities. In any such activity, impacts on environmentally critical areas are avoided where possible and minimized where necessary, and disbursed to the extent possible. Critical areas are restored to the pre-existing level of function and value within one year after tests are concluded;

(6) Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways; provided, that reconstruction of any such facilities does not extend outside the previously disturbed area;

(7) Any projects currently under review and “vested” as that term is used in RCW 19.27.095 and 58.17.033 by local, state, or federal agencies prior to official adoption of the ordinance codified in this chapter are exempt from this chapter and will be grandfathered under previous critical areas protection measures. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.3, 1996]

17.35.460 Application requirements.

This chapter is an overlay similar to Chapter 43.21C RCW. No separate “application” or permit is required. The criteria and requirements of this section must be addressed, however, in connection with all land use or development permits issued by Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.4, 1996]

17.35.470 Designation of the administrator.

The planning manager of the Lewis County department of community development or his or her designee shall be responsible for applying the provisions and requirements of this chapter.* [Ord. 1170B,

2000; Ord. 1157, 1998; Ord. 1150 § 3.5, 1996]

17.35.480 Appeals.

(1) Any decision of the administrator in the administration of this chapter may be appealed by the applicant to the hearing examiner. The decision shall be based on the record at the time the decision was issued.

(2) Appeals shall be filed in writing in duplicate with the hearing examiner within 10 calendar days of the date of the action being appealed. The appeal must specify the code section under which error is alleged and state facts from the record to demonstrate prima facie violation of the section in question.

(3) Upon the filing of an appeal, the hearing examiner shall set the time and place at which the matter will be considered. At least 10 calendar days' notice of such time and place, together with one copy of the written appeal, shall be given to the appellant. The appeal shall follow the requirements for a closed record appeal in Chapter 2.25 LCC.

(4) The hearing examiner may reverse or affirm wholly or in part the decision of the administrator. The hearing examiner may also remand if it appears that new or supplemental information may change the result reached. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.6, 1996]

17.35.490 Penalties and enforcement.

It shall be unlawful for any person, firm, corporation, or association, or agent thereof, to violate any provision of this chapter. Under RCW 58.17.300, any such person or other such party who violates Chapter 58.17 RCW or such provision of this chapter as is required there under, with respect to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land shall be guilty of a gross misdemeanor and each sale, offer for sale, lease, or transfer of each separate lot, tract, or parcel of land in violation of any

provision of said RCW chapter or portions of this chapter as are required thereunder shall be deemed a separate and distinct offense. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.7(A), 1996]

17.35.500 Notice of violation and order.

A notice of violation and order for the penalty may be issued by the administrator or designee when there is a finding by such official that a violation of this chapter has occurred or is occurring.

(1) The administrator shall issue such notice and order in writing to the person(s) creating, causing, participating in, or allowing the violation.

(2) The notice of violation and order shall contain the following:

(a) The name and mailing address of the property owner or other person(s) to whom the notice of violation is directed by the administrator;

(b) A street address or legal description adequate for the identification of the activity, property, or portion thereof upon which the violation is based;

(c) A description of the violation and a reference to the nature of the regulation violated which is sufficient to reasonably apprise the recipient of the nature of the violation;

(d) A statement of the action required or action to be terminated to correct the violation and a time or date by which the corrective action must be completed so as to avoid penalty and legal actions for injunctions and abatement;

(e) A statement that a cumulative penalty in the amount of \$20.00 per day for each violation shall be assessed against the person(s) to whom the notice and order to correct the violation is directed for each and every day, for which the violation continues, with such penalization commencing on the hour or the day following the time or date, respectively, set for completion of the corrective action;

(f) A statement that the violation may also constitute a criminal gross misdemeanor for each and every day, or portion of a day, for which the violation continues.

(3) The notice shall be served upon the person(s) to whom it is directed, either personally or by mailing a copy of the notice by certified mail, postage prepaid, and return receipt requested, to such persons at their last known mailing address. Proof of service shall be made at the time of service by written declaration under penalty of perjury executed by the party effecting such service, and declaring the date of service and, in the case of personal service, the time of service, and the manner by which service was made.

(4) Except in criminal enforcement actions, upon the written request by the person(s) upon whom service was made, or their legal representative, and for good cause shown (as with substantial completion of corrective actions or unforeseeable circumstances which render good faith attempts at completion impossible), the administrator may extend the time or date originally set for completion of corrective action.

(5) Except in criminal enforcement actions, an informal administrative conference involving the person(s) receiving the notice may be conducted at any time by the administrator for the purposes of presenting facts and law relating to an alleged violation, promoting communication between the parties, and providing a non-adversarial forum for the resolution of any violation. The administrator shall determine whether or not to hold such conference, the attendance, and the agenda thereof, and, at the conclusion of the conference, may independently affirm or revoke the notice and penalty, or modify such notice and penalty by joint stipulation of the parties.

(6) Any violation notice penalty issued by the administrator shall become effective

20 days after issuance, unless a written notice of appeal is properly filed. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.7(B), 1996]

17.35.510 Additional enforcement actions.

The office of the Lewis County prosecuting attorney may bring such additional injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter, and county and state laws, and the costs of such action shall be taxed by the prosecuting attorney against the person committing the violation.

In the enforcement of this chapter and Chapter 58.17 RCW, the prosecuting attorney may accept assurance of discontinuance of any act or practice deemed in violation thereof from any person engaging in, or who has engaged in such act or practice. A violation of such assurance shall for purposes of prosecuting constitute and serve as prima facie proof of violation of this chapter or Chapter 58.17 RCW. Acceptance of such assurance does not relieve a party from compliance with this chapter or state law. With respect to enforcement of Chapter 58.17 RCW and with court actions filed pursuant to this chapter, any such assurance shall be in writing and be filed with and subject to the approval of the superior court. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.7(C), 1996]

17.35.520 Nonconforming activities.

An established use or existing structure that was lawfully permitted prior to adoption of the ordinance codified in this chapter, but which is not in compliance with this chapter, may continue subject to the following:

(1) Nonconforming uses shall not be expanded or changed in any way that increases the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter;

(2) Existing structures shall not be expanded or altered in any manner which will increase the nonconformity without a permit or other approval issued pursuant to the provisions of this chapter, except one-family dwellings and accessory structures may be expanded or altered as follows: Reconstruction, remodeling, or maintenance of one-family dwellings and accessory structures existing on the effective date of the ordinance codified in this chapter shall be allowed; provided, that a one-time only expansion of the building footprint does not increase that footprint by more than 25 percent;

(3) Activities or uses which are abandoned. A use discontinued for 60 months shall be presumed abandoned, but such presumption may be rebutted. An abandoned use or structure is allowed to resume only if in compliance with this chapter; and

(4) Nonconforming structures destroyed by fire, explosion, or other casualty may be replaced or restored if reconstruction of the same facility is commenced within two years of such damage. The reconstruction or restoration shall not serve to expand, enlarge, or increase the extent of the nonconformity. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.8, 1996]

17.35.530 Variances.

(1) If an applicant for a proposal demonstrates to the satisfaction of the administrator that application of the standards of this chapter would constitute an extraordinary hardship to the applicant, a variance to such standards shall be granted if the applicant also demonstrates all the following to the satisfaction of the administrator:

(a) That no commercially viable use with less impact on the critical area is possible which would not pose an extraordinary hardship on the applicant;

(b) That there is no commercially viable alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the critical area and its related buffer;

(c) That the proposed activities will result in minimum feasible alteration or impairment to the critical area's functional characteristics and its existing environment;

(d) That disturbance of critical areas has been minimized by locating any necessary alteration in a related buffer to the extent possible;

(e) That the proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, or sensitive species or habitats;

(f) That the proposed activities will not significantly affect the quality of ground water or surface water quality;

(g) That the proposed activities comply with all state, local, and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(h) That any and all alterations to critical areas and their related buffers will be mitigated as required by the provisions of this chapter;

(i) That there will be no injury to nearby public or private property and no significant affect upon the health, safety, or welfare of persons within or outside of the property; and

(j) That the need for a variance is not the result of deliberate actions by the applicant or prior owners after the effective date of the ordinance codified in this chapter.

(2) Notice of a variance request shall be given in conjunction with the notice of any permit application; provided, that if such

permit application does not require a public hearing, the variance request shall be scheduled for hearing before the administrator upon the same notice as provided for other public hearings required by county subdivision ordinance. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.9, 1996]

17.35.540 Nonregulatory incentives.

The following nonregulatory incentives shall apply to all critical areas:

(1) Assessment Relief.

(a) The Lewis County assessor shall consider the impact of the critical area regulations contained in this chapter on property values when determining the fair market value of land.

(b) Any owner of a critical area and its buffer who has dedicated a conservation easement to or entered into a perpetual conservation restriction with a department of the local, state, or federal government; or to a nonprofit organization to permanently control some or all of the uses and activities within this area may request that the Lewis County assessor reevaluate that specific area with those restrictions.

(c) The administrator shall notify the assessor's office of any application of this chapter which results in building restrictions on a particular site.

(2) Open Space. Subject to the criteria established by law, any person who owns a critical area as identified by this chapter may apply for current use assessment pursuant to Chapter 84.34 RCW. The Open Space Tax Act allows Lewis County to designate lands, which should be taxed at their "current use value." The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. Lewis County has adopted a public benefit rating system which classifies properties on the basis of their relative importance of natural and cultural resources, the availability of public access, and the

presence of a "conservation easement." These features are given a point value, and the total point value determines the property tax reduction. Lands with an important habitat or species would commonly qualify for this voluntary program. Applications are approved by the board of county commissioners following a public hearing.

(3) Conservation Easement. Any person who owns an identified critical area as defined by this chapter may offer a conservation easement over that portion of the property designated a critical area naming the county or its qualified designee under RCW 64.04.130 as the beneficiary of the easement. The purpose of the conservation easement shall be to protect, preserve, maintain, restore, limit the future use of, or conserve for open space purposes the land designated as critical area(s), in accordance with RCW 64.04.130. Details governing easement restrictions and conditions of acceptance shall be negotiated between property owners and the county. Acceptance of such an easement and the consideration therefore, if any, shall be discretionary with the county and subject to the priorities for and availability of funds.

The administrator may attach such additional conditions of acceptance as deemed necessary to assure the preservation and protection of the affected wetlands and buffers within conservation easements to assure compliance with the purposes and requirements of this chapter.

The responsibility for maintaining conservation easements shall be held by the overlying lot owner(s) or other appropriate entity as approved by the administrator.

Lewis County may establish appropriate processing fees for such conservation easements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.10, 1996]

17.35.550 SEPA.

This chapter is a written policy of Lewis County enforceable through the State

Environmental Policy Act, Chapter 43.21C RCW and specifically RCW 43.21C.065. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.11, 1996]

17.35.560 Judicial or legislative modification.

Should the Growth Management Act (Chapter 36.70A RCW) or the implementing regulations (Chapter 360-190 WAC) be challenged or modified by a court of competent jurisdiction or modified by the Legislature in any way affecting this chapter, this chapter shall be brought before the board of county commissioners not less than 30 days after such action is final to determine what, if any, changes may be required by reason of such action. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.12, 1996]

17.35.570 Cost recovery.

Unfunded costs incurred by the county, or its citizens, which are properly chargeable to the state or state agencies shall be billed to such agencies consistent with applicable rules and regulations for such cost recovery. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 3.13, 1996]

Article IV. Critical Area Regulations

Article IV(A). Wetlands

17.35.580 Identification.

(1) Lewis County adopts the U.S. Corps of Engineers Wetlands Delineation Manual, 1987 edition, for use in the identification of wetland areas.

(2) Lewis County will accept the delineation of a specific wetland by any agency identified in LCC 17.35.630(2) where a formal delineation was performed in conjunction with a referenced permit.

(3) Lewis County will accept a written determination by the U.S. Army Corps of Engineers, Washington State Department of

Ecology, or the Washington State Department of Natural Resources that a specific parcel is not a wetland, so long as the determination is still applicable under state or federal law. Such determinations specifically include determinations of “prior converted croplands” as that term is defined under federal law. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(A), 1996]

17.35.590 Classification.

(1) Classes of Wetlands

(a) Class A Wetlands. All wetlands scoring a “Category I” or “Category II” rating under the Washington State Department of Ecology Washington State Wetlands Rating System for Western Washington, Section Edition, August 1993.

(b) Class B Wetlands. All wetlands scoring a “Category III” or “Category IV” rating on the WDOE rating scale.

(2) Presumptions. All contiguous wetlands over two acres shall be presumed to be Class A wetlands and all other wetlands shall be presumed to be Class B wetlands until a formal rating is made. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(B), 1996]

17.35.600 Allowed activities in wetlands and buffers.

(1) The following uses are specifically allowed in wetland or buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines and facilities, regional transmission facilities, local delivery systems, and hydroelectric generating facilities where reasonable nonwetland alternatives are unavailable.

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonwetland alternatives are unavailable.

(c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions.

(d) Development activities allowed by permits issued in conjunction with LCC 17.35.630(1) and (2).

(e) Single-family residence and ordinary residential improvements on an existing legal lot where nonwetland alternatives are unavailable.

(f) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency.

(g) Golf courses in buffers only where at least 60 percent of the area of the required buffer is left undisturbed and at least 75 percent of the wetland perimeter remains bounded by a minimum 25-foot-wide undisturbed buffer.

(2) The following uses are necessary to fully enjoy and understand wetlands or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit.

(a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4).

(b) Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.).

(c) Harvesting wild crops which do not significantly affect the function of the wetland or regulated buffer (does not include tilling of soil or alteration of wetland area).

(d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds.

(3) Wetland relocation when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:

(a) The relocation will improve wetland systems, functions and values, water quality, fish or wildlife habitats, or aquifer recharge (if hydrologically connected to a wetland).

(b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new wetland and buffer; and provisions for landscaping and long-term maintenance.

(c) Relocation will maintain or improve the functions and values of the wetland system.

(d) Natural materials and vegetation normally associated with the wetland will be utilized. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(C), 1996]

17.35.610 Protection.

Protection of wetland areas may be accomplished through one or a combination of the factors set forth in this section:

(1) Setbacks - Buffer.

(a) Class A wetlands - low intensity uses: 50 feet (not subject to reduction per subsections (4) and (5) of this section);

(b) Class A wetlands - high intensity uses: 100 feet;

(c) Class B wetlands - low intensity uses 50 feet;

(d) Class B wetlands - high intensity uses: 50 feet.

(2) Other Protections. All high intensity uses located within 50 feet of any Class B wetland or 75 feet of any Class A wetland shall provide screening of the wetland along the buffer edge sufficient to prevent the lights of auto traffic or required illumination

of the facility from shining directly into the wetlands; provided, that this requirement shall not apply in any area where the width of the wetland is less than four times the width of the buffer.

(3) Order of Precedence.

(a) Urban Areas. In urban areas the setbacks in this wetlands section shall take precedence over setback standards in other critical areas, except for threatened or endangered species specifically identified under the critical habitat section. In the latter case, critical habitat criteria shall prevail.

(b) Rural Areas. In rural areas the setbacks for all critical areas shall be overlapping and the most restrictive shall apply; provided, however, where a conflict exists in connection with prime agricultural soils, the provisions of the agricultural resource section of Chapter 17.30 LCC shall take precedence.

(4) Allowed Alteration to Buffers - Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

(a) Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the wetland and buffer.

(b) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging was not allowed.

(c) No part of the width of the buffer is less than 50 percent of the required width or 25 feet, whichever is greater.

(5) Buffer Width Reduction. Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:

(a) Buffers, or buffers reduced after buffer averaging, will have a minimal

function or value based on existing physical characteristics.

(b) The applicant demonstrates that the proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functions and values of the buffer when compared with the functions and values of the standard buffer. The applicant may use a combination of storm drains, bioswales, and/or other natural and manmade items which provide the equivalent storm water treatment, flood storage, and habitat values as the replaced buffer in its predevelopment state.

(c) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section.

(d) The buffer width is not reduced below 50 percent of the standard buffer width or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75 percent of the total buffer area before reduction. Any reduction below 50 feet will require "equivalent protection" as described in subsection (5)(b) of this section to equal a total of 50 feet.

(e) The functions and values of the wetland protected by the buffer are not decreased. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(D), 1996]

17.35.620 Mitigation conditions.

(1) County Permits. Where a project other than those identified in LCC 17.35.600(2) requires the disruption of a wetland, the wetland system, function, and values shall be protected or enhanced through mitigation as specified in this section. A mitigation plan shall be prepared that describes how the proposed mitigation will replace the functions and values of the altered wetland.

(a) Land Based Mitigation. Alteration of wetlands shall require either the creation, restoration, or enhancement of

wetlands to provide equivalent or greater functions and values. In order to address the risk and time lag associated with creating, restoring, or enhancing wetlands, the following acreage replacement ratios shall be required except as provided for in subsections (1)(b) and (c) of this section. These ratios assume that the replacement wetland will be similar in type and structure to the wetland being altered.

**Acreage Replacement Ratios for
Creation/Restoration**

Class A Wetlands	
Category I	4:1
Category II	2:1
Class B Wetlands	1.5:1

When enhancement of existing wetlands is proposed, the above ratios shall be doubled.

(b) Increasing or Decreasing Replacement Ratios. Replacement ratios may be increased or decreased based on the following circumstances:

(i) Degree of uncertainty as to the probable success of the proposed mitigation;

(ii) The period of time between alteration of the wetland and replacement of lost functions and values;

(iii) Projected gains or losses in functions and values; provided, that findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values results from a reduced ratio;

(iv) A minimum acreage replacement ratio of 1:1 shall be required except as provided in subsection (1)(c) and (d) of this section.

(c) Replacing Functions and Values. In lieu of area-based mitigation provided above, an applicant may propose mitigation in the form of equivalent functions and values. Such a proposal shall:

(i) Only be allowed when the wetland being altered is not a Category I wetland under the WDOE rating system.

(ii) Include documentation (the “report”) from a qualified critical area professional that describes how the proposed mitigation will replace or improve upon the functions and values provided by the altered wetland. This shall include a detailed assessment of the functions and values provided by the wetland to be altered and a detailed assessment of the functions and values to be provided by the proposed mitigation action. The report shall demonstrate:

(A) Degree of uncertainty as to the probable success of the proposed mitigation;

(B) The period of time between alteration of the wetland and replacement of lost functions and values;

(C) Projected gains or losses in functions and values; provided, that findings of special studies coordinated with agencies with expertise demonstrate that no loss of wetland functions or values results from a reduced ratio.

(iii) Be reviewed by county or other agency staff with expertise in wetland mitigation.

(d) Mitigation Banking. The process of creating wetlands to be used as mitigation for future unavoidable wetland impacts is encouraged. Close coordination with all potential permitting agencies is necessary to implementing a mitigation bank. The provisions of this chapter may be modified as appropriate to be consistent with a mitigation banking agreement signed by federal and state permitting agencies. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(E), 1996]

17.35.630 Processing.

(1) County Permits.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a

development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is a qualified critical area professional capable of identifying wetlands under the 1987 guidelines and determining the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section. The county shall identify the process for a certificate of compliance through resolution.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect wetland areas. Where permits identified below are obtained in connection with a project in the county, the standards and/or approvals obtained in conjunction with such permits and approvals shall be “protective” of the wetland critical area and shall be deemed in compliance with the requirements of this chapter to the extent regulated by the permit in question.

Where any conflicts exist, requirements of the permits listed below shall supersede the provisions of LCC 17.35.600, 17.35.610 and 17.35.620.

(b) Permits Protective of Wetland Systems, Functions, and Values.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1399, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

The standards of this chapter shall apply to all county permits for a project; provided, however, such county provision may be deleted or modified to reflect the federal requirement where the listed permit specifically addressed the issues of wetland and buffer protection.

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

The standards of this chapter shall apply to all county permits for a project; provided, however, such county provision may be deleted or modified to reflect the federal requirement where the listed permit specifically addressed the issues of wetland and buffer protection.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State

Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a “resource conservation plan” approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of statewide significance which is consistent with the state Shoreline Management Act and the master program for Lewis County where wetland identification and protection has been specifically addressed. The standards of this chapter shall be a guideline for shoreline permits, but may be varied where required to meet shoreline goals and requirements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(F), 1996]

17.35.640 References.

The following references provide an indication of wetland locations. Field conditions shall be used to determine the existence or extent of any wetland area. Reference sources:

(1) National Wetland Inventory USGS quadrangle maps on file at the county offices.

(2) Natural Resources Conservation Service, soils map for Lewis County, hydric soils designations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150A, 1996; Ord. 1150 § 4.1(G), 1996]

Article IV(B). Fisheries Habitat

17.35.650 Identification.

Lewis County's policy is to protect fisheries habitat as part of habitat conservation areas classified pursuant to Article IV(C) of this chapter for endangered, threatened, or sensitive species listed by the Washington State Department of Fish and Wildlife. Lewis County adopts the Department of Natural Resources' Official Water Type Maps. Definitions are as identified in the water typing criteria in WAC 222-16-030; provided, however, that artificially created structures, ditches, canals, ponds, irrigation return ditches, and storm water channels of every type shall not be considered a stream for purposes of this section. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(A), 1996]

17.35.660 Classification.

Streams are classified Type 1-5 for critical area protection purposes based on the water typing criteria in WAC 222-16-030 as adopted by the state in June 1993 and summarized in Table 1 below. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(B), 1996]

TABLE 1
Water Typing Criteria, WAC 222-16-030

Water Type	1	2	3	4	5
Channel Width	N/A	20' or greater between ordinary high water mark (OHWM)	Anadromous fish: 5' or wider between OHWM. Resident game fish: 10' or wider between OHWM	2' or wider between OHWM	<2' between OHWM
Gradient	N/A	<4% (<5% for off-channel drainages).	Anadromous fish: <12%. Not upstream of a falls >10' high. Resident game fish: <12%	N/A	N/A
Flow	N/A	N/A	Anadromous fish: N/A Resident game fish: >0.3 CFS at summer low flow.	N/A	N/A
Impoundment	N/A	Water surface area of 1 acre or greater at seasonal low flow.	Anadromous fish: Surface area <1 acre at seasonal low flow. Resident game fish: Surface area <0.5 acres at seasonal low flow.	N/A	N/A
Fisheries	N/A	Used by substantial numbers of anadromous or resident game fish for spawning, rearing and migration.	Used by significant numbers of anadromous or resident game fish for spawning, rearing, and migration.	Not used by significant numbers of fish.	Not used by significant numbers of fish
Diversion	N/A	Domestic use for 100 or more residences or campsites accommodation facility for 100 or more persons—includes upstream reach of 1,500' or until the drainage area is <50%, whichever is less.	Domestic use for 10 or more residences or campsites, accommodation facility for 10 or more persons—includes upstream reach of 1,500' or until the drainage area is <50%, whichever is less.	N/A	N/A
Other	All water within OHWM inventoried as “Shore-lines of the State” excluding related wetlands (typically 20 CFS)	Streams flowing through campgrounds available to the public having 30 campsites or more.	Contributes > 20% of the flow to a Type 1 or 2 water. Anadromous fish impoundments have outlet to stream with anadromous fish.	All natural waters not classified as Type 1, 2, or 3 and for the purpose of protecting downstream waters	All natural water not classified as Type 1,2,3, or 4, or seepage areas, ponds, and drainageways having short runoff periods

17.35.670 Allowed activities in streams and buffers.

(1) The following uses are specifically allowed in streams and buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines and facilities, regional transmission facilities, local delivery systems, and hydroelectric generating facilities where reasonable nonstream alternatives are unavailable;

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where

reasonable nonstream alternatives are unavailable;

(c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact stream-based functions;

(d) Development activities allowed by permits issued in conjunction with LCC 17.35.700(1) and (2);

(e) Single-family residence and ordinary residential improvements on an existing legal lot within the buffer only

where alternatives outside the buffer are unavailable;

(f) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency.

(2) The following uses might be necessary to fully enjoy and understand fisheries habitats or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit.

(a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4);

(b) Outdoor recreational or educational activities which do not significantly affect the function of the fisheries habitat or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);

(c) Harvesting wild crops which do not significantly affect the function of the fisheries habitat or regulated buffer (does not include tilling of soil or alteration of fisheries habitat area);

(d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds;

(e) Golf courses in buffers only where at least 60 percent of the area of the required buffer is left undisturbed and at least required buffer is left undisturbed and at least 75 percent of the stream perimeter remains bounded by a minimum 25-foot-wide undisturbed buffer;

(f) Bank protection and flood protection, including flow control structures for regional retention/detention systems;

(g) In-stream fish and/or wildlife habitat enhancement.

(3) Stream relocation when a plan is submitted as part of the critical area study

which demonstrates that the following criteria are met:

(a) The relocation will not significantly degrade water quality, fish or wildlife habitats, or aquifer recharge (if hydrologically connected to a wetland);

(b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new stream channel; and provisions for landscaping and long-term maintenance and for filling and revegetating the prior channel, if appropriate;

(c) Relocation will maintain or improve the functions and values of the fisheries habitat system;

(d) Natural materials and vegetation normally associated with the stream will be utilized;

(e) Spawning, rearing, and nesting areas will be created, if appropriate;

(f) Fish populations directly affected by the activity will be re-established, if appropriate;

(g) Current water flow characteristics compatible with fish habitat areas will be maintained. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(C), 1996]

17.35.680 Protection.

(1) Standard Buffer Width Requirements. The buffers for streams regulated under this article shall be distinguished between urban and rural characteristics. For purposes of this section, urban streams are those portions of streams, which are contained within an urban growth boundary as designated by the county. Rural streams are those portions of streams which lie outside an urban growth boundary as designated by the county.

(a) Widths for required rural stream buffers:

Stream Type	High Intensity Uses	Low Intensity Uses
Type 1	100 feet	50 feet
Type 2	100 feet	50 feet
Type 3	100 feet	50 feet
Type 4	50 feet	25 feet
Type 5*	25 feet	25 feet

*(natural watercourse only)

(b) Widths for required urban stream buffers (where storm water is contained through an approved storm drain system):

Stream Type	High Intensity Uses	Low Intensity Uses
Type 1	100 feet	50 feet
Type 2	75 feet	50 feet
Type 3	50 feet	50 feet
Type 4	25 feet	25 feet
Type 5*	10 feet	10 feet

*(natural watercourse only)

(c) Measurement. For streams, the buffer shall be measured horizontally in a landward direction from the ordinary high water mark. Where lands adjacent to a stream display a continuous slope of 50 percent or greater, the buffer shall include such sloping areas. For Type 1, 2, and 3 streams, where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer shall be extended to a point 25 feet beyond the top of the bank of the sloping area.

(2) Allowed Alteration to Buffers.

(a) Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

(i) Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection, erosion protection, and other functions of the stream and buffer;

(ii) The total area of the buffer on the subject property is not less than the

buffer which would be required if averaging was not allowed;

(iii) No part of the width of the buffer is less than 50 percent of the required width or 25 feet, whichever is greater.

(b) Buffer Width Reduction. Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:

(i) Buffers, or buffers reduced after buffer averaging, will have a minimal function or use based on existing physical characteristics; and

(ii) The applicant demonstrates that the proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functions and values of the buffer when compared with the functions and values of the standard buffer;

(iii) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section;

(iv) The buffer width is not reduced below 50 percent of the standard buffer width or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75 percent of the total buffer area before reduction;

(v) The functions and values of the stream protected by the buffer are not decreased. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(D), 1996]

17.35.690 Mitigation conditions.

(1) County Permits. Unless otherwise provided by this section, mitigation shall be required for loss of area or function and value of streams and buffers regulated under this section. When mitigation is required by this section, it shall address restoration, rehabilitation, and compensation in accordance with the following requirements:

(a) Restoration is required when a stream or buffer regulated under this section has been altered prior to project approval

unless the alteration was authorized by law, or when streams and/or buffers are temporarily affected by construction or any other temporary phase of a project.

(b) Mitigation is required when a stream or buffer regulated under this section is permanently altered as a result of project approval or activity.

(c) On-site mitigation is preferred so as to assure that the plan results in mitigation for direct impacts resulting from the alteration.

(d) Off-site mitigation will be used only in those situations where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve. Off-site mitigation is allowed where it better serves the purposes of this chapter. When off-site mitigation is allowed, it must occur within the same subdrainage basin as the project impact.

(e) Mitigation shall be completed prior to granting of final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required. Bonding at 150 percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(E), 1996]

17.35.700 Processing.

(1) County Permits.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is qualified to identify streams under state guidelines and determine the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section.

(b) High Intensity Uses. Compliance with the requirements of this section shall be

considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect stream areas. Where permits identified below are obtained in connection with project in the county, the standards and approvals obtained in conjunction with such permits and approvals shall be "protective" of the stream critical area and shall be deemed in compliance with the requirements of this chapter to the extent regulated by the permit in question.

Where any conflicts exist, such requirements shall supersede the provisions of LCC 17.35.670, 17.35.680 and 17.35.690.

(b) Permits Protective of Stream Systems, Functions, and Values.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a “resource conservation plan” approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of state-wide significance which is consistent with the state Shoreline Management Act and the master program for Lewis County where stream identification and protection has been specifically addressed. The standards of this chapter shall be a guideline for shoreline permits, but may be varied where required to meet shoreline goals and requirements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(F), 1996]

17.35.710 References.

The following references provide an indication of fisheries resources. Field conditions shall be used to determine the

existence or extent of any classified stream area. Reference sources:

(1) DNR base maps for stream types and topography;

(2) WDFW Washington Rivers Information System, Salmon and Steelhead Inventory. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.2(G), 1996]

Article IV(C). Wildlife Habitat

17.35.720 Identification.

Lewis County adopts the Washington State Department of Fish and Wildlife Priority Habitats and Species Recommendations for Species and Habitats, listed at WAC 232-12-014 (Endangered); WAC 232-12-001 (Threatened) or WAC 232-12-011 (Sensitive); WAC 232-12-292 (Bald Eagle) or federally designated threatened or endangered species legally applicable to Lewis County by appropriately adopted regulation. The purpose of this section shall be the protection of such habitat consistent with the property rights of the property owners and occupants of Lewis County. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(A), 1996]

17.35.730 Classification.

The designation of a site as a wildlife critical habitat area shall apply to those lands where (1) the habitat in fact exists, (2) the habitat is in fact used for at least two consecutive seasons prior to the permit application, and (3) (within the urban area) the species will likely continue to use the habitat once full urbanization is reached (the 20-year buildout). [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(B), 1996]

17.35.740 Allowed activities in critical wildlife areas and buffers.

(1) The following uses are specifically allowed in critical wildlife habitat or buffer areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines and facilities, hydroelectric generating facilities, regional transmission facilities, and local delivery systems where no reasonable alternatives are available;

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonwetland alternatives are unavailable;

(c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact critical wildlife area functions and values;

(d) Development activities allowed by permits issued in conjunction with LCC 17.35.770(1) and (2);

(e) Single-family residence and ordinary residential improvements on an existing legal lot where no alternative outside the buffer is available;

(f) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency where no reasonable nonwildlife habitat alternative is available.

(2) The following uses are necessary to fully enjoy and understand critical wildlife habitat areas or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

(a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4);

(b) Outdoor recreational or educational activities which do not significantly affect the function of the critical wildlife area or buffer (including wildlife management or viewing structures,

outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);

(c) Harvesting wild crops which do not significantly affect the function of the critical wildlife area or buffer (does not include alteration of a critical wildlife area);

(d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds;

(e) Golf courses in buffers only where at least 60 percent of the area of the required buffer is left undisturbed;

(f) Bank protection and flood protection, including flow control structures for regional retention/detention systems.

(3) Habitat relocation when a plan is submitted as part of the critical area study which demonstrates that the following criteria are met:

(a) The relocation will improve the critical area wildlife habitats;

(b) The plan must contain and show the following information: a topographic survey showing existing and proposed topography and location of the new habitat, and provisions for landscaping and long-term maintenance;

(c) Relocation will maintain or improve critical wildlife area habitat functions and values;

(d) Natural materials and vegetation normally associated with the habitat system will be utilized;

(e) Feeding, rearing, and nesting areas will be created, if applicable;

(f) Threatened, endangered, or sensitive species will be reestablished, if applicable;

(g) Critical wildlife area characteristics compatible with relevant threatened, endangered, or sensitive species habitat areas will be restored. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(C), 1996]

17.35.750 Protection.

(1) Lewis County adopts the recommendations of WDFW Management Recommendations for Washington's Priority Habitat and Species, May 1991, as may be amended, for guidelines for habitat protection and buffer creation and maintenance for listed species.

(2) Consideration. In reviewing any land use development permit application involving a property on which priority habitat is located and to accomplish the priorities and protections of this chapter, the administrator shall consider conditioning any approval consistent with recommendations derived from criteria and recommendations from the WDFW Management Recommendations for Washington's Priority Habitat and Species in the context of the location and importance of the parcel in the protection of the species identified. This provision does not apply to intentionally or unintentionally created habitat areas which were created in nonhabitat areas as a result of agricultural, forest, or mineral resource activities.

(3) Order of Precedence.

(a) Urban Areas. In urban areas the buffers in this wildlife habitat section will take precedence over other critical area buffers where:

(i) The habitat area is over one acre in size;

(ii) The listed species is in fact present; and

(iii) The Department of Fish and Wildlife can demonstrate a reasonable likelihood that the species in question is likely to remain on the site once full urbanization is reached (the 20-year buildout).

(b) Rural Areas. In rural areas the buffers for all critical areas shall be overlapping and the most restrictive shall apply. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(D), 1996]

17.35.760 Mitigation conditions.

(1) County Permits. Unless otherwise provided by this section, mitigation shall be required for loss of area or functions and values of wildlife habitat regulated under this section. When mitigation is required by this section, it shall address restoration, rehabilitation, and alternatives in accordance with the following requirements:

(a) Restoration is required when a wildlife habitat regulated under this section has been altered prior to project approval unless the alteration was authorized by law; or when wildlife habitats are temporarily affected by construction or any other temporary phase of a project.

(b) Mitigation is required when a wildlife habitat regulated under this section is permanently altered as a result of project approval or activity.

(c) On-site mitigation is preferred so as to assure that the plan results in mitigation for direct impacts resulting from the alteration.

(d) Off-site mitigation will be used only in those situations where appropriate, adequate on-site mitigation is not reasonable or desirable to achieve. Off-site mitigation is allowed where it better serves the purposes of this chapter. When off-site mitigation is allowed, it must occur within the same subbasin as the project impact.

(e) Mitigation shall be completed prior to granting of final occupancy, or the completion or final approval of any development activity for which mitigation measures have been required. Bonding at 150 percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(E), 1996]

17.35.770 Processing.

(1) County Permits. Where a critical area wildlife habitat is not dealt with in a permit identified in the above section, compliance

with the requirements of this section shall be considered a material element of any permit approval.

Adverse effects shall be mitigated to ensure continuation of baseline populations for all priority species and any other species of local importance. Baseline populations are those population levels known to have been supported by the area in question with relative stability over the decade preceding the proposed development. Creation of isolated subpopulations of those species shall be avoided.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is qualified to identify critical habitat areas under state guidelines and determine the requirements of this section and (ii) the proposed structure or development is consistent with the requirements of this section.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect wildlife areas. Where permits identified below are obtained in connection with a project in the county, the standards and approvals obtained in conjunction with such permits and approvals shall be deemed in compliance with the requirements of this chapter for priority wildlife areas to the extent regulated by the permit in question.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a "resource conservation plan" approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to

participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of state-wide significance which is consistent with the state Shoreline Master Program and the master program for Lewis County where habitat identification and protection of the subject habitat and species of consideration has been specifically addressed.[Ord.1170B, 2000; Ord. 1157, 1998; Ord. 1150 §4.3(F), 1996]

17.35.780 Limitation on applicability.

(1) Wildlife Habitat Criteria. Wildlife habitat criteria are recommended by the Washington State Department of Fish and Wildlife. Such recommendations shall be mandatory only to the extent they are:

(a) Part of a program adopted as a regulation by WDFW;

(b) Reasonably ascertainable; and

(c) Properly applicable to the property in question.

In other cases the recommendations shall be considered guidelines and the county may follow specific recommendations of a qualified critical area professional as to the scope and nature of mitigation to achieve a protection of the habitat system, functions, and values at issue for the project.

(2) Limitation. Lewis County will not rule on the constitutional enforceability of specific standards set by the Washington State Department of Fish and Wildlife. Nothing in this chapter, however, shall limit a property owner from challenging the applicability, reasonableness, or ability of the state to impose certain habitat conditions to a particular property or project. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(G), 1996]

17.35.790 References.

(1) Wildlife critical areas shall be field located based on applicable criteria.

(2) Lewis County maintains a wildlife critical areas map which may be used as a general reference. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.3(H), 1996]

Article IV(D). Frequently Flooded Areas

17.35.800 Purpose.

The purpose of the frequently flooded areas article is to help the public and private sectors avoid losses due to flood conditions in specific areas. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(A), 1996]

17.35.810 Classification.

For the purposes of this chapter, frequently flooded areas within Lewis County shall be classified using the following criteria: Frequently flooded areas shall be those lands identified by the Federal Emergency Management Agency as those areas falling within the 100-year frequency floodplain in the Flood Insurance Study for Lewis County, Washington, Unincorporated Areas, the most current version thereof with accompanying flood insurance rate maps and floodway maps. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(B), 1996]

17.35.820 Designation.

Lands within Lewis County meeting the classification criteria for frequently flooded areas are hereby so designated and subject to the standards and requirements set forth below. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(C), 1996]

17.35.830 Standards for permit decisions.

Development within designated frequently flooded areas shall be in compliance with Chapter 15.35 LCC, as now or hereafter amended, and/or the Lewis County shoreline management master program, as now or hereafter amended. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.4(D), 1996]

Article IV(E). Aquifer Recharge Areas

17.35.840 Purpose.

Once ground water is contaminated, it is difficult to clean and the cost of cleanup may be prohibitive. Since water, especially potable water, is such a vital resource, Lewis County will work to protect the water quality of its critical aquifers. Therefore, it is the policy of Lewis County to accomplish the following:

(1) To prevent significant degradation of ground water resources;

(2) To recognize the potential connection between surface and ground water resources;

(3) To balance competing needs for water under regulated activities while preserving essential natural functions and processes;

(4) To comply with Chapter 90.48 RCW, the Water Pollution Control Act of the state of Washington. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(A), 1996]

17.35.850 Classification.

Aquifer recharge areas are categorized according to the following standards and those contained in Table 2.

(1) Category I - Severe Aquifer Sensitivity. "Category I - Severe aquifer sensitivity" are those areas which provide rapid recharge with little protection, having highly permeable soils. The predominant soil series and types are those listed in Category I in Table 2.

(2) Category II - Moderate Aquifer Sensitivity. "Category II - Moderate aquifer sensitivity" are those areas with aquifers present, but which have a surface soil material that encourages run-off and slows water entry into the ground. The predominant soil series and types are those listed as Category II in Table 2.

TABLE 2
Aquifer Sensitivity Rating for Lewis
County Soil Types

Soil Survey Map No. & Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
1. Alvor			X
2. Andaquepts			X
3. Andic Xerumbrepts			X
4. Aquic Xerofluvents	X		
5. Astoria			X
6-10. Baumgard			X
11-15. Bellicum		X	
16-20. Benham		X	
21-22. Boistfort			X
23-25. Bromo		X	
26-28. Buckpeak			X
29-30. Bunker			X
31-41. Cattcreek		X	
42-44. Centralia			X
45-46. CentraliaVariant			X
47-48. Chehalis		X	
49-56. Cinebar		X	
57-60. Cispus		X	
61. Cloquato	X		
62-69. Colter		X	
70-74. Cotteral		X	
75. Cryaquepts		X	
76. Cryohemists			X
77-78. Dobbs			X
79-83. Domell			X
84. Doty		X	
85. Elochman			X
86-87. Ferteg			X
88. Fluvaquentic	X		
Humaquepts			
89-90. Galvin		X	
91. Glenoma	X		
92. Greenwater	X		
93-98. Hatchet			X
99-103. Hoffstadt			X
104. Indianola	X		
105-107. Jonas			X
108-110. Katula			X
111-113. Katula-Bunker Complex			X
114-115. Katula - Rock Outcrop			X
116-117. Klaber		X	
118-120. Lacamas			X
121-122. Lates			X
123. Ledow	X		
124-125. Lytell			X
126-127. Mal			X
128-129. Mashel			X
130-132. Melbourne		X	
133. Mossyrock		X	
134. Murnen			X
135. National	X		
136-137. Nesika	X		
138-139. Netrac	X		
140-144. Nevat		X	
145-147. Newaukum		X	
148. Newberg	X		
149. Nisqually	X		
150-151. Ohana			X
152-154. Olequa		X	
155-158. Olympic			X

Soil Survey Map No. & Soil Series/Name	Category I Severe	Category II Moderate	Category III Slight
159-165. Pheeneey			X
166. Pits	X		
167-169. Prather		X	
170. Puget		X	
171. Puyallup	X		
172-173. Reed		X	
174-179. Reichel			X
180. Riverwash	X		
181-185. Rock outcrop			X
186. Rubbleland			X
187-190. Salkum			X
191 -192. Sauvola			X
193-195. Scamman		X	
196-203. Schneider			X
204. Schooley		X	
205. Semiahmoo			X
206-207. Siler	X		
208-211. Skate	X		
212. Spanaway	X		
213. Squally		X	
214-220. Stahl			X
221-223. Swem			X
224. Thrash			X
225-227. Tradedollar		X	
228-229. Vader			X
230-235. Vailton			X
236. Voight			X
237-239. Walville			X
240-241. Wilkeson			X
242-246. Winston	X		
247. Xerorthents, Spoils			X
248. Xerorthents, Steep		X	
249. Zenker			X
250-253. Zynbar			X
254-255. Zynbar Variant			X

(3) Category III - Slight Aquifer Sensitivity. "Category III - Slight aquifer sensitivity" are those areas of low ground water availability and whose soil series are derived from basaltic, andesitic, or sedimentary rock or ancient glacial till which are parent material for soils with more clays at the surface. These geological formations do not provide abundant ground water. The predominant soil series and types are those listed as Category III in Table 2. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(B), 1996]

17.35.860 Designation.

(1) Lands of Lewis County meeting the classification criteria for aquifer recharge areas are hereby officially designated, pursuant to the mandate of RCW

36.70A.060 and 36.70A.170 as critical aquifer recharge areas.

(2) Aquifer Recharge Areas - Rating System Determinations. In cases of disputed soil series, or series boundary, and resulting aquifer recharge category, the administrator shall use all available information including reports by the United States Geological Survey, and technical assessments submitted in accordance with Table 2 of this chapter to make the final determination. This may include consultation with the USDA Natural Resource Conservation Service, the Washington Department of Natural Resources Division of Geology and Earth Resources, or a soil scientist certified by the American Registry of Certified Professionals in agronomy, crops, and soils. In areas that have been disturbed or the surface soil removed, as in gravel pits, the administrator shall determine the most appropriate category with geological and hydrological information. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(C), 1996]

17.35.870 Allowed activities.

(1) The following uses are specifically allowed in aquifer recharge areas subject to the priorities, protection, and mitigation requirements of this article:

(a) Utility lines and facilities, regional transmission facilities, and local delivery systems where reasonable nonaquifer recharge area alternatives are unavailable;

(b) Public and private roadways and railroad facilities, including bridge construction and culvert installation, where reasonable nonaquifer recharge area alternatives are unavailable;

(c) Maintenance, repair, or operation of existing structures, facilities, or improved areas, including, minor modification of existing serviceable structures where modification does not adversely impact aquifer recharge area functions;

(d) Development activities allowed by permits issued in conjunction with LCC 17.35.900(1) and (2);

(e) Single-family residence and ordinary residential improvements on an existing legal lot where nonaquifer recharge area alternatives are unavailable;

(f) Regional storm water detention/retention facilities, identified in an adopted plan of an appropriate public agency;

(g) Golf courses.

(2) The following uses are necessary to fully enjoy and understand aquifer recharge areas or to provide resource activities and are permitted without any specific protection or mitigation other than may be identified in an applicable permit:

(a) Conservation, preservation, or enhancement projects to protect functions and values of the critical area system, including activities and mitigation allowed pursuant to the mitigation priorities identified in LCC 17.35.030(4);

(b) Outdoor recreational or educational activities which do not significantly affect the function of the aquifer recharge area (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.);

(c) Harvesting wild crops which do not significantly affect the function of the aquifer recharge area;

(d) Existing and on-going agricultural activities, including maintenance of existing ditches and ponds. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(D), 1996]

17.35.880 Protection.

(1) Low Intensity Uses. Any development on aquifer sensitive soils shall:

(a) Prohibit buried tanks of any petroleum or hazardous material unless the tank is double wall protected;

(b) Prohibit the discharge of petroleum or hazardous materials to any

ditch, swale, or other non-impervious surfaced area where migration to the aquifer is a reasonable likelihood;

(c) Require oil-water separators for any impervious surface areas 5,000 square feet or larger.

(2) High Intensity Uses. High intensity uses shall have the same protective standards as low intensity standards and shall comply with additional requirements where specifically listed below, where using hazardous materials in excess of small quantity generator status, and shall comply with requirements identified on registered label or material safety data sheets.

(3) Special High Intensity Uses. The uses in Table 3 shall be reviewed as high intensity uses within any aquifer recharge area regardless of the size, where any petroleum or hazardous wastes as defined in Chapter 123-303 WAC are used or stored in excess of limits identified in Lewis County health department health section consistent with Chapter 123-303 WAC, as a risk to ground water quality.

(4) Additional Protection for Specified High Intensity Uses. The following protection standards shall apply to aquifer recharge area review and approval of uses or activities by the administrator set forth in LCC 17.35.870, above, within aquifer recharge areas. Certain uses and activities conducted within some aquifer sensitivity categories, as identified in Table 3 of this chapter will require the submission of a technical assessment to the administrator. The submission of additional information may also be required for some of the uses and activities identified within this subsection.

TABLE 3
High Intensity Uses within Aquifer
Recharge Areas

		On Sewerage System			Not on Sewerage System		
		CATEGORY			CATEGORY		
		1	2	3	1	2	3
1.	Biological Research	S	S	S	S	S	S
2.	Chemical Manufacturing, Mixing and Remanufacturing	X/S	X/S	S	X	X	X
3.	Chemical Research	S	S	S	S	S	S
4.	Chemical Waste Reprocessing	X/S	X/S	S	X	X	X
5.	Dry Cleaning (not clothing pick-up)	S	S	S	X	X	X
6.	Electroplating	S	S	S	X	X	X
7.	Fabric Coating	S	S	S	S	S	S
8.	Fiberglass Lamination Processes	S	S	S	S	S	S
9.	Fuel Pipelines	S	S	S	S	S	S
10.	Furniture Stripping	S	S	S	X/S	X/S	X/S
11.	Garages - Municipal, County, State	S	S	S	X/S	X/S	X/S
12.	Solid Waste Disposal Facilities	X	X	S	X	X	S
13.	Metal Processing with Etchers and Chemicals	S	S	S	X	X	X
14.	Printing and Publishing	S	S	S	S	S	S
15.	Solid Waste Handling/Processing	S	S	S	S	S	S
16.	Storage Tanks - Above Ground	S	S	S	S	S	S
17.	Storage Tanks - Underground	S	S	S	S	S	S
18.	Subdivision creating lots less than 2 acres in size	S	S	S	S	S	S
19.	Tanning	S	S	S	X/S	X/S	X/S
20.	Textile Dyeing	S	S	S	X/S	X/S	X/S
21.	Vehicle Repair	S	S	S	S	S	S
22.	Vehicle Wrecking	S	S	S	S	S	S
23.	Wood Preservers	X/S	X/S	S	X/S	X/S	S
24.	All other activities using, handling, or storing hazardous materials, or generating hazardous materials by their activities or actions	S	S	S	S	S	S
25.	Activities requiring an NPDES permit for process water or generating a waste water stream exceeding single-family residential strength, quantity, or quality	S	S	S	X/S	X/S	X/S

Notes:

X = Prohibited.

S = Allowed subject to the standards of this chapter.

X/S = These uses shall be prohibited when proposed at the usual commercial or industrial scale. Small scale uses or using non-hazardous materials may be permitted when the quantity, nature of the materials used or stored on site, and mitigation methods proposed create no significant risk to ground water.

(a) Aboveground Storage. Aboveground storage of petroleum products, wastewater or hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by the Lewis County health department environmental health section, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall be designed, constructed, and operated so as to:

(i) Prevent the release of such substances to the ground, ground waters, or surface waters; and

(ii) Have around and under it an impervious secondary containment area enclosing or underlying the container or part thereof;

(iii) Provide a written spill response plan, when requested, and give immediate spill notification to the Lewis County health department environmental health section;

(iv) Provide readable labeling as to contents and hazardous characteristics.

(b) Underground Storage Tanks and Vaults. Underground storage tanks and vaults used for the storage of petroleum products, wastewater, or hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by the Lewis County health department environmental health section, consistent with Chapter 173-303 WAC, as a risk to ground water quality, shall conform to Chapter 173-360 WAC and be designed, constructed and operated so as to:

(i) Prevent release, corrosion, or structural failure for the operational life of the tank or vault;

(ii) Be cathodically protected against corrosion, constructed of noncorrosive material, or steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance;

(iii) Use material in the construction or lining of the tank which is compatible with the substance to be stored;

(iv) Provide for release detection method(s);

(v) Provide a written spill response plan, when requested, and give immediate spill notification to the Lewis County health department environmental health section.

(c) Solid Waste Disposal. Landfills and other solid waste disposal facilities shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such a determination, the administrator shall require the following information from the applicant:

(i) Geologic setting and soils information of the site and the surrounding area;

(ii) Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;

(iii) Location and depth of any perched water tables;

(iv) Recharge potential of the facility in terms of permeability and transmissivity;

(v) Local ground water flow, direction, and gradient;

(vi) Location, depth, and other water quality data mentioned in subsection (4)(c)(ii) of this section on the three shallowest

wells or springs located within 1,000 feet of the site;

(vii) Surface water locations within 1,000 feet of the site;

(viii) Discussion of the effects of the proposed project on ground water quality and quantity;

(ix) Recommendations on appropriate mitigation, if any, to assure that there is no significant effect on the quality of ground water;

(x) Provisions for contaminant release detection.

All lands on which the report indicates the proposed development would probably negatively impact the quality of the aquifer shall be prohibited unless the report can satisfactorily demonstrate that these negative impacts would be overcome in such a manner as to prevent significant affect on the quality of ground water.

(d) Junk Yards, Salvage Yards, Wrecking Yards, and Recycling Centers. Commercial and noncommercial enterprises in this category shall show that an adverse impact on ground water quality will not occur. To ensure such impact will not occur, the administrator shall require the following:

(i) A written management plan that will describe the "best management practices" to be used to prevent the contamination of ground water and/or soil. The written plan will be located at the site and must be made available upon request by the administrator during normal business hours;

(ii) Site specific geologic and soils information indicating the recharge potential of the facility site in terms of permeability and transmissivity;

(iii) Location and depth of any perched water tables;

(iv) Ground water quality monitoring may be required in cases where ground water contamination is considered likely or strongly suspected. Said monitoring will be conducted at the expense of the property owner and/or occupying business or enterprise having conducted the activities identified in this subsection;

(v) Identification of permanent and temporary or seasonal surface water bodies on the site and within 1,000 feet of the site.

(e) Divisions of Land. Subdivisions, short subdivisions, and other divisions of land shall be evaluated for their impact on ground water quality. The following measures may be required as

determined by the Lewis County health department environmental health section:

(i) An analysis of the potential nitrate loading to the ground water may be required to assess the impact on ground water quality;

(ii) Alternative site designs, phased development, and/or ground water quality monitoring may be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade ground water quality;

(iii) Open spaces may be required on development proposals overlying areas highly susceptible to contamination of ground water resources;

(iv) Community/public water systems are encouraged and may be required where site conditions indicate a high degree of potential contamination to individual wells from on-site and off-site sources;

(v) Where wells are required to be abandoned, the applicant shall ensure that they are abandoned according to state guidelines;

(vi) It may be required that contaminants be removed from storm water runoff prior to their point of entry into surface or ground water resources using available and reasonable best management practices as approved by the Lewis County engineer.

(f) Storm Water Standards for Commercial and Industrial Uses. All new commercial and industrial land uses which either: (i) have greater than 5,000 square feet of impervious area; or (ii) handle, store; dispose, transport, or generate hazardous substances or wastes defined as dangerous or extremely dangerous wastes under Chapter 173-303 WAC (regardless of quantity), which may come in contact with storm water runoff including, but not limited to, gas stations and distributors, car washes, trucking companies, and paint shops, shall remove contaminants prior to their entry

into surface or ground water resources using available and reasonable best management practices. Standard drywells are prohibited. Maintenance of storm water infiltration systems must be assured as a condition of permit approval.

(g) Parks, Schools, and Recreation Facilities. Fertilizer, herbicide, and pesticide management practices of schools, parks, golf courses, and other nonresidential facilities that maintain large landscaped areas shall be evaluated in relation to best management practices as recommended by the Cooperative Extension Service.

(h) Utility Transmission Facilities. New or expanded utility facilities which carry oil, gas, or any hazardous substance as defined by Chapter 173-303 WAC shall provide hydrogeologic information in addition to spill prevention measures and an emergency spill management plan.

(i) Sewage Sludge and Septage Disposal. Sewage sludge and septage disposal shall be prohibited within Category I aquifer recharge areas. Disposal within Category II and III aquifer recharge areas shall be subject to the requirements of 40 CFR Part 503, Subpart A;

(j) Hazardous Substances and Petroleum Activities. All other activities or actions involving the use, handling, storage, or generation of any amount of hazardous materials shall be subject to the protection standards set forth in Chapter 173-303 WAC. Waste oil generating activities shall be subject to the provisions of Chapter 70.95I RCW. Facilities with more than one 55-gallon drum or 450 pounds of hazardous substances or petroleum products on site at any one time shall:

(i) Keep and follow a written spill response plan; and

(ii) Establish a written best management practices plan that is site specific to prevent contamination of the environment.

Facilities shall report any significant spill out of containment to the Lewis County health department environmental health section within seven days of that spill. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(E), 1996]

17.35.890 Mitigation conditions.

(1) Mitigation Conditions. In addition to the conditions set forth in LCC 17.35.880(1) through (4), the administrator may require additional conditions which ensure that the specific use or activity will not significantly degrade ground water quality. Such conditions may include, but are not limited to the following:

(a) A written management plan for wastewater, hazardous products and hazardous waste, petroleum products and petroleum waste, and other materials judged by the administrator to be detrimental to ground water quality, that when implemented using best management practices, will prevent ground water contamination;

(b) Upgrading available on-site spill response equipment;

(c) Employee spill response training;

(d) Emergency service coordination measures;

(e) Ground water monitoring. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(F), 1996]

17.35.900 Processing.

(1) County Permits.

(a) Low Intensity Uses - Certificate of Compliance. Any applicant for a development permit for a low intensity use shall be in compliance with this section by submitting with the application for the development permit a certificate of compliance stating (i) that the author is qualified to identify aquifer recharge areas under state guidelines and determine the requirements of this section and (ii) the proposed structure or development is

consistent with the requirements of this section.

(b) High Intensity Uses. Compliance with the requirements of this section shall be considered a material element of any permit approval. All technical analysis in connection with high intensity uses shall be by a qualified critical area professional.

(i) For projects requiring environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the environmental documents for all applications requiring environmental review and the environmental determination shall include a review of the material to determine an adequate demonstration of compliance with the requirements of this section. Enforcement of this section shall be pursuant to RCW 43.21C.065 and shall be material in any permit approval.

(ii) For projects exempt from environmental review: Information demonstrating compliance with the standards of this section shall be submitted in connection with the application documents for any development permit exempt from environmental review. A written finding of compliance, together with the reasons for such finding, shall be required in connection with the issuance of any county permit for a high intensity use.

(2) Other Agency Permits and Standards.

(a) Policy. The county desires to limit overlapping regulations and conflicting regulations. To this end, the county recognizes that a number of other permitting agencies do take steps to protect aquifer recharge areas.

Where permits identified below are obtained in connection with a project in the county, the standards and approvals obtained in conjunction with such permits and approvals shall be "protective" of the aquifer recharge critical area and shall be

deemed in compliance with this chapter to the extent regulated by the permit in question.

Where any conflicts exist, such requirements shall supersede the provisions of LCC 17.35.870, 17.35.880 and 17.35.890.

(b) Permits Protective of Aquifer Recharge Functions.

(i) An individual permit granted pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 USC § 403, or Section 404 of the Clean Water Act, 33 USC § 1344, by the U.S. Army Corps of Engineers or Nationwide Permit 21 (mines).

(ii) An individual water quality certification given pursuant to Section 401 of the Clean Water Act by the Washington State Department of Ecology.

(iii) Class I, II, or III forest practice permits and Class IV special permits issued by the Washington State Department of Natural Resources pursuant to the State Forest Practices Act.

(iv) Any agricultural practice which is the subject of a “resource conservation plan” approved by the Natural Resources Conservation Service which specifically incorporates recommended best management practices as a prerequisite to participating in specified federal farm programs.

(v) Any permit for substantial development in the shorelines of the state or of state-wide significance which is consistent with the state Shoreline Management Act and the master program for Lewis County where aquifer recharge area identification and protection has been specifically addressed. The standards of this chapter shall be a guideline for shoreline permits, but may be varied where required to meet shoreline goals and requirements. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.5(G), 1996]

Article IV(F). Geologically Hazardous Areas

17.35.910 Purpose.

It is the purpose of this article to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. For purposes of this chapter, geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas, seismic hazard areas, mine hazard areas, and volcanic hazard areas. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(A), 1996]

17.35.920 Erosion and landslide hazard areas.

(1) Classification of Erosion and Landslide Hazard Areas.

(a) Erosion hazard areas are those areas that have severe or very severe erosion potential as detailed in the soil descriptions contained in the Soil Survey of Lewis County Area, Washington, 1987, Soil Conservation Service, USDA.

(b) Landslide hazard areas are those areas meeting any of the following criteria:

(i) Areas of historic failure, such as areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published as the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;

(ii) Areas which are rated as unstable due to characteristics of the earth material and topography;

(iii) Any area with all of the following:

(A) A slope greater than 15 percent, and

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and

(C) Springs or ground water seepage;

(iv) Slopes that are parallel or sub-parallel to planes of weakness;

(v) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking;

(vi) Areas potentially unstable as a result of rapid stream incision and streambank erosion;

(vii) Areas located in a canyon, on an alluvial fan, or presently or potentially subject to inundation by debris flows or catastrophic flooding;

(viii) Areas included in the Slope Stability Study of the Centralia-Chehalis Area, Lewis County, Washington by Allen J. Fiksdal, Department of Natural Resources, Division of Geology and Earth Resources, 1978: Areas mapped as “unstable,” “landslides,” and “old landslides” (if slopes are in excess of 30 percent);

(ix) Areas located outside the study area on the Slope Stability Study of the Centralia-Chehalis Area, regardless of slope, that are mapped as “landslide debris” in the following Open File Reports and maps at a scale of 1:100,000 available from the Washington State Department of Natural Resources, Division of Geology and Earth Resources:

(A) Open File Report 87-11, Centralia Quadrangle, by H.S. Schasse, 1987,

(B) Open File Report 87-16, Mount Rainier Quadrangle, by H.S. Schasse, 1987,

(C) Open File Report 87-4, Mount St. Helens Quadrangle, by W.M. Phillips, 1987,

(D) Open File Report 87-8, Chehalis River and Westport Quadrangle, by R.L. Logan, 1987,

(E) Open File Report 87-5, Mount Adams Quadrangle, by M.A. Korosec, 1987,

(F) Open File Report 87-2, Astoria and Ilwaco Quadrangle, by T.J. Walsh, 1987.

(2) Designation of Erosion and Landslide Hazard Areas. Lands of Lewis County meeting the classification criteria for erosion and landslide hazard areas are hereby, under Chapter 36.70A RCW, designated as erosion and landslide hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for erosion and landslide hazard areas shall apply unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply to any land use development permits in a landslide hazard area; provided, however, (i) that the expansion of preexisting structures shall be exempt so long as the intrusion into an erosion or landslide hazard area does not increase and (ii) these provisions do not apply to permits for single-family homes on existing lots of record where no alternative siting is available and the siting is approved by a professional engineer with regard to safety to the applicant and to down-gradient structures or population.

(4) Maps and Inventory.

(a) Erosion Hazard Areas. This chapter shall apply to all lots and parcels on which an erosion hazard area is located within the jurisdiction of Lewis County. The approximate location and extent of erosion hazard areas is displayed in the Soil Survey of Lewis County Area, Washington, 1987, Soil Conservation Service, USDA.

(b) Landslide Hazard Areas. See subsections (1)(b)(viii) and (ix) of this section.

(c) The soil survey may be relied upon by the administrator as a basis for requiring field investigation and special reports. In the event of a conflict between

information contained in the soil survey and information shown as a result of a field investigation, the latter shall prevail.

(d) The maps and reports cited in subsections (1)(b)(viii) and (ix) of this section showing areas mapped as “landslide debris,” “landslides,” “old landslides,” “modified land,” “intermediate,” and “unstable” should be used only as a general guide for landslide hazard investigation. Detailed site investigations may be needed for site specific hazard identification and regulation.

(5) Development Standards for Erosion and Landslide Hazard Areas. Uses and activities subject to a land use development permit shall conform to the following standards.

(a) Grading.

(i) Clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing;

(ii) Undergrowth shall be preserved to the extent feasible;

(iii) No dead vegetation (slash), fill, or other foreign material shall be placed within a landslide hazard area, other than that approved for bulkheads or other methods of streambank stabilization under the shoreline master program or if such fill is consistent with authorized activities specified in a geotechnical report;

(iv) Minimize ground disturbance to the extent feasible.

(b) Ground Surface Erosion Control Management.

(i) There shall be minimum disturbance of vegetation in order to minimize erosion and maintain existing stability of hazard areas;

(ii) Vegetation removal on the slopes of banks between the ordinary high water mark and the top of the banks shall be minimized because of the potential for erosion;

(iii) Vegetation and organic soil material shall be removed from a fill site prior to the placement of clean earthen material;

(iv) Vegetative cover shall be reestablished on any disturbed surface to the extent feasible;

(v) Groundcovers (approved geotechnical controls) such as filter fabrics, rip-rap, etc. shall be placed on any disturbed surface to the extent feasible.

(c) Drainage.

(i) Surface drainage, including downspouts, shall not be directed across the face of a hazard area. If drainage must be discharged from the top of a hazard area to its toe, it shall be collected above the top and directed to the toe by tight line drain, and provided with an energy dissipative device at the toe for discharge to a swale or other acceptable natural drainage areas.

(ii) Storm water retention and detention systems, including percolation systems utilizing buried pipe are strongly discouraged unless a geotechnical assessment indicates such a system shall not affect slope stability and the systems are designed by a licensed civil engineer. The licensed civil engineer shall also certify that the systems are installed as designed.

(d) On-Site Sewage Disposal System Drainfields. For the purpose of landslide or erosion control, the on-site sewage disposal system drainfields shall be located outside the hazard area and its buffer, unless otherwise justified by a qualified geotechnical engineer. The septic system drainfield must be in compliance with the regulations of the Lewis County health department or its successors.

(e) Lot Size. For the purpose of determining lot sizes within hazard areas, the administrator shall review available information, including any required geotechnical assessments and make a decision on a case-by-case basis based on the reports.

(f) Buffers.

(i) An undisturbed buffer adequate to assure that risk of slide is reduced to levels acceptable to geotechnical engineers shall be required for all structures intended for human user occupation. The buffer shall be measured on the surface and is required from the top, toe, and along all sides of any existing landslide or erosion hazard area.

(ii) The buffer shall be clearly staked before any construction or clearing takes place.

(g) Design Guidelines.

(i) Structures should be clustered where possible to reduce disturbance and removal of vegetation.

(ii) Foundations should conform to the natural contours of the slope and foundations should be stepped/tiered where possible to conform to existing topography of the site.

(iii) Roads, walkways, and parking areas should be designed with low gradients or parallel to the natural contours of the site.

(iv) Access should be in the least sensitive area of the site.

(h) No critical facilities shall be constructed or located within an erosion or landslide hazard area. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(B), 1996]

17.35.930 Mine hazard areas.

(1) Classification of Mine Hazard Areas. Mine hazard areas are those areas within 50 horizontal feet of a mine opening at the surface or which are underlain at a depth of 100 feet or less by mine workings identified in the Washington State Department of Natural Resources, Division of Geology and Earth Resources, Open File Report 94-7, The Washington State Coal Mines Map Collection: A Catalog, Index, and User's Guide, by H.W. Schaase, M. Lorraine Koler, Nancy A. Eberle, and Rebecca A. Christie, 1994, 107 pages, and Open File Report 84-

6, Inventory of Abandoned Coal Mines in the State of Washington, by F.V. LaSalata, M.C. Meard, T.J. Walsh, and H.W. Schaase, 1985, 42 pages.

(2) Designation of Mine Hazard Areas. Lands of Lewis County meeting the classification criteria for mine hazard areas are hereby, under Chapter 36.70A RCW, designated as mine hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for mine hazard areas shall apply, unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply only to land use development permits; provided, that the expansion of pre-existing structures shall be exempt so long as the intrusion into a mine hazard area does not increase.

(4) Maps and Inventory.

(a) Mine Hazard Areas. See subsection (1) of this section.

(b) The above referenced reports may be relied upon by the administrator as a basis for requiring field investigation and special reports. In the event of a conflict between the information shown in the reports and the results of a field investigation, the latter shall prevail.

(5) Development Standards for Mine Hazard Areas. Development on or near a mine hazard area requires applicant to first demonstrate that no hazard to health or safety, persons, or property exists at the proposed site as a result of the development. If a proposal is located on or near a mine hazard area, a geotechnical report may be required. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(C), 1996]

17.35.940 Seismic hazard areas.

(1) Classification of Seismic Hazard Areas. For the purposes of this

classification, a seismic hazard area is any area subject to a Seismic Risk Zone 3 rating or higher.

(2) Designation of Seismic Hazard Areas. Lands of Lewis County meeting the criteria for seismic hazard areas are hereby, under Chapter 36.70A RCW, designated as seismic hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for seismic hazard areas shall apply unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply to land use development permits; provided, that the expansion of preexisting structures and facilities shall be exempt so long as the hazard to health or safety, persons, or property does not increase.

(4) Maps and Inventory.

(a) All of Lewis County lies within Seismic Risk Zone 3, as shown the Uniform Building Code Seismic Risk Zone Map of the United States.

(b) The administrator may require site specific field studies or special reports for the location of critical facilities within seismic hazard areas.

(5) Development Standards for Seismic Hazard Areas. All development within areas that meet the classification criteria for seismic hazard areas shall comply with the Uniform Building Code requirements for Seismic Risk Zone 3 as adopted by Lewis County. No other permits are required by this chapter for seismic hazards. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(D), 1996]

17.35.950 Volcanic hazard areas.

(1) Classification of Volcanic Hazard Areas. Volcanic hazard areas are areas where the risk to life and property by a large volcanic event is high. These areas in Lewis County include: debris flow, mudflow, and

volcanic-induced flooding zones. Volcanic hazards in Lewis County are imposed by the two nearby volcanic peaks, Mount St. Helens and Mount Rainier, which lie sufficiently far from the county that risks of lava flows, pyroclastic flows, and volcanic ashfall deposits are extremely minimal. Mudflows and debris flows, which occur in the drainage basins that headwater on active volcanos, Mt. St. Helens and Mt. Rainier, are described in the following reports:

(a) Development and Routing of Mudflow Resulting from Hypothetical Failure of Spirit Lake Debris Dam, Washington, by D.L. Kresch, Water Resource Investigations Report 91-4028, U.S. Geological Survey, 1992, 29 pages.

(b) Sedimentology, Behavior, and Hazards of Debris Flows at Mount Rainier, Washington, by K.M. Scott, P.T. Pringle, and J.W. Vallance, Open-File Report OP-90-0385, U.S. Geological Survey, 1992, 106 pages.

(2) Designation of Volcanic Hazard Areas. Lands of Lewis County meeting the classification criteria for volcanic hazard areas are hereby, under Chapter 36.70A RCW, designated as volcanic hazard areas.

(3) Applicability.

(a) When any provision of any other ordinance of Lewis County conflicts with this section, that provision which is intended for volcanic hazard areas shall apply unless specifically provided otherwise in this chapter.

(b) The provisions of this section shall apply only to all land use development permits; provided, that the expansion of preexisting structures and facilities shall be exempt so long as the hazard to health or safety, persons, or property does not increase.

(4) Maps and Inventory.

(a) Volcanic Hazard Areas. See subsection (1) of this section.

(b) The reports cited in subsection (1) of this section may be relied upon by the

administrator as a basis for requiring field investigations and special reports. In the event of a conflict between information contained in said reports and information shown as a result of a field investigation, the latter shall prevail.

(5) Development Standards for Volcanic Hazard Areas.

(a) No critical facilities shall be constructed or located in volcanic hazard areas.

(b) Other development shall comply with existing Federal Emergency Management Agency regulations. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1150 § 4.6(E), 1996]

Chapter 17.40

RIGHT TO FARM

Sections:

17.40.010	Title.
17.40.020	Purpose.
17.40.030	Definitions.
17.40.040	Policy on agricultural nuisances.
17.40.050	Recommended practices.

17.40.010 Title.

This chapter shall be cited as the Lewis County right to farm chapter. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 1, 1991]

17.40.020 Purpose.

It is the purpose of this chapter to promote and protect agriculture and farm forestry and its dependent rural communities through the enhancement, protection and perpetuation of the ability of the private sector to produce food and fiber in accordance with RCW 7.48.305. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 2, 1991]

17.40.030 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm and timber products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; smoke; operation of machinery and pumps; movement; including but not limited to use of current county roads and ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners and plant protection products; employment

and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways and similar features and maintenance of stream banks and watercourses; and conversion from one agricultural activity to another.

(2) "Farm" means the land, buildings, manure lagoons, ponds, freshwater culturings and growing facilities, and machinery used in commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquaculture or other agricultural commodities.

(4) "Farm product" means those plants and animals (and the products thereof) useful to human beings which are produced on farms and include, but are not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock including breeding, grazing and feed lots, fruits, vegetables, flowers, seeds, grasses, nursery products, trees and forest products including Christmas trees and timber, freshwater fish and fish products, rabbits, apiaries, equine and similar products, or any other product which incorporates the use of food, feed, fiber or fur.

(5) "Generally accepted agricultural and management practices" means sound, economically feasible farming techniques and practices as defined and/or recommended by the American Society of Agronomy, United States Department of Agriculture Soil Conservation Service, Washington State Cooperative Extension Service, and other professional or industrial agricultural organizations.

(6) "Person" means an individual, firm, copartnership, association, corporation, or other legal entity, including any federal,

state, or local municipal corporation, agency, or special purpose district. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 3, 1991]

17.40.040 Policy on agricultural nuisances.

(1) Notwithstanding any other provision in this chapter, agricultural activities conducted on farmland, if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

(2) If that agricultural activity is undertaken in conformity with generally accepted agricultural and management practices and with federal, state and local laws and regulations and health department guidelines, it is presumed to be good agriculture practice and not adversely effecting the public health and safety.

(3) A farm operation shall not be restricted in its activities to time of day or days of the week, but shall be conducted according to generally accepted agricultural and management practices. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 4, 1991]

17.40.050 Recommended practices.

(1) To minimize possible adverse environmental effects, those engaged in agricultural activities shall apply chemical products in accordance with all label instructions and shall abide by all applicable state and federal laws and regulations as well as with generally accepted agricultural and management practices.

(2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and management practices, recognizing that those practices may be subject to varying

conditions including, but not limited to, geographic location, weather, soil types and conditions, type of crop or livestock, and management systems. [Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 5, 1991]